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## NOTICE OF PUBLIC HEARING

The ASSEMBLY JUDICIARY COMMITTEE has recently formed a subcommittee to be known as the SUBCOMMITTEE ON ADMINISTRATION OF FIREARMS STATUTES. Assemblyman Gary Stuhlraeger will chair this subcommittee. The subcommittee will hold a second public hearing on Tuesday, September 22, 1987 at 10:00 a.m. in Room 424 in the State House Annex, Trenton.

The purpose of this public hearing is to continue the review of existing statutory provisions related to firearms including, but not limited to, the exemptions of carrying a weapon without a permit and matters concerning lawful transportation of a firearm. No specific legislative proposals will be considered. Discussion is expected to take an overview of existing laws and regulations and be a continuation of discussion from the first hearing on September 15, 1987.

Anyone wishing to participate should contact Patricia K. Nagle, Aide to the Assembly Judiciary Committee at (609) 292-5526.

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ASSEMBLYMAN GARY W. STUHLTRAGER (Chairman): Good morning. If there are seats available, I would ask that everybody take them, so we can provide viewing access and everyone can see and hear what is going on here today. I want to thank everyone for coming back. This is the second hearing we have held on the New Jersey firearms statutes. We heard testimony last week -- a number of case histories -- and this week we will continue with all individuals who want to testify. I have given preference this morning to Colonel Pagano, who has come to provide us with his perspective on the current statute and its administration. Without any further ado, Colonel Pagano, thank you for joining us this morning.

C O L O N E L C L I N T O N L. P A G A N O, S R.: Thank you, Assemblyman. I would like to introduce, if I may, the people I have with me. I have Sgt. Robert Mazaur -- Sgt. First Class Robert Mazaur -- who manages the Firearms Unit. He can answer a number of questions, as far as procedures are concerned. I have Deputy Attorney General Victoria Bramson, who represents the Attorney General, in the main, in any kinds of legislative undertakings.

As far as my own history is concerned, I think I can probably best describe my particular situation as being a sportsman. I have been a hunter all my life. I am a gun owner. I have owned guns all my life. I am one of the remaining people in government -- I don't know of anyone else right now -- who was part of putting this Act together. I was assigned to the Attorney General's office from 1962 to 1968, in the main doing work for the Supreme Court, but nonetheless doing special projects for Attorney General Sills. One project was a very controversial project. That was the enactment of the firearms statute that we currently have -- the firearms statute, actually the (inaudible) reviewing.

I say, and I have said before, and have sometimes been challenged-- I say that New Jersey does not control firearms;



New Jersey controls people -- the right of a homeowner or a businessperson or a citizen to enjoy firearms. I don't think, from what I am told about the law, that it is a constitutional right, but it is a right, and it is a clear right. It is a right that ought to be preserved. For a homeowner to be able to defend himself has been clearly articulated by the Legislature; for a businessperson to protect himself is clearly articulated also, and I believe in that. I don't challenge that one bit. What I do challenge -- now that I am an administrator -- and what was challenged when this Act was originally contemplated, was the public safety needs of this State and its relationship to firearms.

What the Legislature said, and what I believe today, is that any person who falls within a certain category of criminal offenders -- felons -- or a person who has a history of drug abuse, or a person who has a history of alcohol abuse, or any other person -- a person with emotional problems, mental problems -- or a person who, in the best interest of the community, ought not to have a gun. They should not have guns, and they should not have access to guns. Just as important -- and we lived through the riot era in this State -- is the State's authorizing the law enforcement people of New Jersey to take action when they see situations where they think they can prevent problems. Prior to the Firearms Act, there was no authority of this type that was in any way realistic.

I brought with me today a statement that I think meets the needs of what you are studying, and I would ask that you review this statement at your leisure. I would like to paraphrase it, if I may.

The effectiveness of the present gun law can be measured by the uniform crime reporting statistics which are maintained by the FBI and by the New Jersey State Police. The latest stats -- and I think this is something that came through at your last hearing -- once again verify the

experience we have had in New Jersey, as far as the control of people and firearms is concerned.

In New Jersey, firearms are used in 38.3% of our murder cases, and we had 397 murder cases in the last year. Nationally, 59% of all murders are accomplished by the use of firearms. In aggravated assaults -- that means the kind of an assault where there is really physical injury-- The national average in the aggravated assault area is 21.3%. In other words, in every aggravated assault nationally, 21.3% were accomplished with firearms. In New Jersey, only 13.3% involved firearms. Again, you see a significant downturn in New Jersey.

Since 1975, when the law was originally enacted, we have added a third category in the index crimes we have looked at firearms-wise, and that is the crime of robbery. The national average for robbery with the use of firearms is 34.3%, but in New Jersey only 27.6% of all robberies involve firearms. This has remained consistently lower since we first began giving these stats. In fact, overall since we have had the firearms law, while the national average for that period is 32.9%, ours is 24.1%.

I don't want to labor this hearing with stats, but the truth of the matter is, we have the statistics to prove the theory. This is a theory that was first brought forward when we enacted the law. I think you are fairly familiar with the process, but essentially what happens is, any person who wants to acquire or keep a firearm must make application. We have two categories of licensing. We have had a license requirement for pistols and short weapons since the early 1930s. That has not materially changed. It was not changed with the revised Act, in the main, in 1967.

As far as long arms are concerned, any firearm 26 inches or more, we require a Firearms Identification Card. It is issued either by the Chief or by the Superintendent, after there is an investigation into the background of the individual

making application. The purchaser's Firearms I.D. Card is good until the person is found in a situation where he or she is no longer of good character or, for that matter, they no longer qualify to purchase firearms, or they get themselves involved in something that means essentially that they fall within the listed proscribed individuals.

ASSEMBLYMAN STUHLTRAGER: Colonel, if I may interrupt--

COLONEL PAGANO: Sure.

ASSEMBLYMAN STUHLTRAGER: A question on the I.D. card: There has been some indication from testimony that the goal and purpose and role of the I.D. card has been expanded over time from just a purchaser I.D. card to just a general I.D. card that you must have in your possession any time you have the firearm with you. Do you see a change in the role of the I.D. card and, if not, what do you interpret the specific role to be?

COLONEL PAGANO: I see a definite change in the role of the I.D. card. The I.D. card, originally -- you know, to expand a little bit on what you said, Assemblyman -- was looked upon as a means of identifying a person who had the capacity to buy a gun. It is always more convenient, when you are carrying that gun around and you find yourself in a situation where some citizen reports you to the police, or the police confront you, to have that card in your possession. It is not really required. What it has come to be -- and this I think I can say without fear of real challenge-- The Firearms I.D. Card in New Jersey has come to be a means of attesting to good character, and it is used for a lot of things. The Firearms I.D. Card, to people who know the background of the I.D. card, is recognized as some verification of that person's standing in the community. I have had instance after instance where the I.D. card was used for purposes other than which it was originally contemplated.



ASSEMBLYMAN STUHLTRAGER: In your opinion, is there any need for clarification of the role of the I.D. card, so that the law enforcement community, as well as the sportsmen community, will have a better idea as to exactly what is prohibited and what is not prohibited conduct?

COLONEL PAGANO: I think the exposure we have had recently with the McClure-Voltmer (phonetic spelling) Act has clarified, in the main, some of the clouds that were in the minds of people as far as transporting firearms is concerned. Beyond that, unless you can think of something, Bob (addressing Sgt. Mazaur), I don't know how we would make the law any clearer. I think it is pretty clear right now. It is the I.D. card that is needed for purchase. The Act clearly authorizes any citizen to do certain things with a firearm, whether he does or does not have a Firearms I.D. Card.

For instance, if you had a rifle or a shotgun that you had prior to the Act, or that you had acquired out-of-state, and you don't have an I.D. card, you can legitimately bring that into the State. You can't bring some weapons in, obviously, because they are proscribed by all law. But if you don't have an I.D. card and you want to go hunting, if you want to go shooting, or if you want to go to a gunsmith, or something like that, you have a clear right to do that, and I think the law enforcement community understands that.

On the other hand, that does not stop a law enforcement officer who encounters a citizen and sees a weapon in plain view from asking what he is doing with that weapon. I think that is what the whole public safety issue is about, no matter what the case may be. So, unless, Bob, you have some ideas--

S G T. R O B E R T M A Z A U R: No, sir. Really, you only need an I.D. card to purchase a rifle or shotgun, or to receive it as a gift, or to receive it from someone else when you go to borrow one.

ASSEMBLYMAN STUHLTRAGER: It just seemed that in a couple of cases we heard testimony on, perhaps the simple lack of having the card there in the mind of the law enforcement officer present, if not constituting an offense, at least resulted in the conduct that took place thereafter. I can't say that for sure; I am not inside the mind of the officer. But it seems that there may have been a misunderstanding about the requirement of having the I.D. card.

COLONEL PAGANO: One of the reasons we did what we did -- and I think it became especially important during the riot era -- might lend itself to that kind of logic, although I don't think essentially the average law enforcement officer does misunderstand the card. But, during the riot era, it was not unusual to see a person go up and down the road with a shotgun or a rifle. There was public panic. There is no doubt in my mind about it. That panic begot panic, and there was more and more as a result of some of the conduct we saw.

But, quite honestly, I think the one benefit of that I.D. card is that some of that panic will be removed, if that card is in the possession of the guy in public view carrying a rifle or a shotgun. It is not required, but it is certainly probably a good habit to get into. I think the law is clear enough. I don't know of any major default on the part of the police as far as misunderstanding that law is concerned, but like any other system, from time to time, I am sure you are going to have either misunderstandings or problems, which are going to have to be ironed out either by supervisors or by the courts.

ASSEMBLYMAN STUHLTRAGER: I was going to ask this later, but since you mentioned the Federal Act-- There was some indication that your position was -- and I am going to give you an opportunity here to make it clear -- that the Federal Act did not preempt New Jersey, in terms of transportation.

COLONEL PAGANO: Absolutely not. The Federal Act really, as it was finally brought into law, just clarifies and solidifies the New Jersey position. If you want to carry a gun in the trunk of a car, carry it in the trunk of a car securely wrapped; keep it outside the control of the operator. Keep it away from immediate use. Separate the weapon from the ammunition. That is the Federal Act; that is the State law. And that is exactly what we do.

Prior to that, you certainly could find yourself in difficulty in New Jersey if you were doing just that. But I have no doubt that that is what the Federal law requires now. We never did challenge that seriously, but, by the same token, if that person comes through with that weapon in the trunk, and it is properly identified, and he is a felon, or he falls within those disabilities, now he may have a problem in New Jersey, because that is the New Jersey law.

ASSEMBLYMAN STUHLTRAGER: Which is not preempted by the Federal law.

COLONEL PAGANO: It is not preempted by the Federal law at all.

ASSEMBLYMAN STUHLTRAGER: I apologize for interrupting, but we kind of got into some areas that we are going to get into anyway.

COLONEL PAGANO: Sure. I have just a couple of other points I would like to cover in my presentation. In New Jersey, we have regulations -- we have adopted regulations that require that dealers install an approved security system, for safeguarding firearms and ammunition at their place of business. I think this has been a highly successful way the State has deterred the theft of firearms and ammunition. I think that in New Jersey, while we have 953 retail firearms dealers and 43 manufacturers, we have, as a result of that regulation -- I point this out for a special purpose -- safeguarded, by regulation, firearms which otherwise might have been stolen, or taken for some other illegal purpose.

As a result of the strict policy we have had, in a population of eight million, we have only 37,581 people who are authorized to carry firearms concealed on their person. I don't know whether that is something that can be looked upon in one light or another, but, nonetheless, that is the fact. New Jersey does not, on its streets or in its communities, take on the image of an armed camp. We have processed, as of August 19, 1987, 1,094,691 various firearm applications. Now, that is how many we have processed. That is a big work load. That means that with the people who are involved in this mix, they have done a rather yeoman job.

There is a myth right now afield that this only penalizes legitimate people; that only legitimate people suffer as a result of this law. As of today, we have denied 33,242 citizens the right to purchase or carry firearms -- 33,242. Thirty-five percent of those people are people who falsified the application, in the main, giving information indicating that they did not have a criminal record. That explodes a myth. We have murderers; we have all types of felons who have gone right through the process and have been denied access to firearms. Our own experience, especially in the more sophisticated area, is that the people who are hellbent to wreak havoc in this country -- and I am speaking about the terrorist types, in the main, the Joanne Chesimards, the Tommy Mannings, the Luc Levasseurs, all of these groups we have worked with, and we have suffered from-- These people do not go out and steal firearms. They are very methodical in what they do. They have gone forward and examined which gun will work and which one won't, just as well as any police department has ever done, and then they get false identification and go right back to a gravestone. They build an identification, and that identification is intended to give them the wherewithal to buy the kind of gun they want, and thereafter they use it for whatever illegal purpose they want.



It is a myth that only the citizen is being prevented from access to firearms. We have 33,242 people who should not have had guns, not having guns in this State.

ASSEMBLYMAN STUHLTRAGER: If I may, Colonel-- Quite candidly, we didn't hear any complaints last week about denial of firearms to people with criminal records, or anything of that nature. We did have some questions with respect to the one basis for denial being in the interest of public health, safety, and welfare. Now, I understand that everything in the law can't be precise, and yet, at the same time, those words could be interpreted so broadly, and with very little guidance, quite frankly, to your people making those decisions. Is that an overly broad standard, and if you think there might be some basis for improving it, what language could you perhaps suggest, or have someone suggest afterward, to improve the situation?

COLONEL PAGANO: Well, Assemblyman, I would be the last one in the world to come before a Committee like this and attack the Legislature.

ASSEMBLYMAN STUHLTRAGER: Oh, feel free.

COLONEL PAGANO: But I was with the Legislature, and the kind of people who were behind me were perfectly legitimate people when they wrestled with the words. We live in a legal world, and we live in a practical world, and there is a wide separation between the two. What the law really says is, when the neighbors say that a guy is a mental defective, and the Chief has had consistent problems with the individual, and he might not necessarily be involved with alcohol or drugs or crime, but he is the guy who has a reputation for being assaultive, just shy of being arrested, but certainly a guy who is a problem in the community, or the guy who is in a position where he can't get a doctor's certificate to attest to his mental stability, then there has to be some latitude on the part of the Chief who knows his people, to say, "I'm sorry, you



can't have a firearm. I am not going to give you that card. You go to a court and you prove your case." That does shift the weight, obviously, but not all of the weight, because that Chief has to make his own presentation before that court, too. Quite honestly, I would be willing to look at any other words, but after having wrestled with this thing for a long, long time-- If there is better verbiage, certainly we would look at it.

ASSEMBLYMAN STUHLTRAGER: In terms of denials, is it customary that denials are done in a written form, or do they just wait until the applicant calls and says, "Hey, where's my I.D. card"? What is the common procedure in that area?

COLONEL PAGANO: The administrative act -- and Sgt. Mazaur is properly pointing it out -- requires that there be a written denial. As far as our administration, where I, as Superintendent, issue the card, there has always been a written denial. After that written denial, of course, the appeals process can begin.

ASSEMBLYMAN STUHLTRAGER: Does that denial cite the reason, whether it be that your criminal background check indicates a prior criminal arrest or conviction, or it is based on public health, safety, and welfare? Does it cite a reason, or is it just a denial?

SGT. MAZAUR: Because of privacy acts, we cannot be precise. We can only say that you are denied, because who knows who is going to read the mail? We can say you have been denied because your background shows that you are subject to the disabilities set forth, but we won't say that you have committed crime so and so, and were found guilty of it.

COLONEL PAGANO: In writing to them. But there is no problem at all if they want to come in and sit down and review why they were denied. They will be told personally why they were denied.

ASSEMBLYMAN STUHLTRAGER: I think that practice can lead to some people feeling they are getting the run-around from the system; that it could be another system, other than an I.D. card system. If the same thing were happening -- if it were a building permit, for instance-- But I think that that blanket denial, without a reason given, is a bothersome thing to some of the people denied.

COLONEL PAGANO: I can well understand why it would be bothersome, but if you were denied on the basis of having been confined against your will in a mental institution for 10 years, I don't think you would want everybody who happened to come across your paperwork to see that. So, it's a balance. If there is a better way, again, we would look at the better way, but, quite honestly, I think the way we are doing it is the best way.

ASSEMBLYMAN STUHLTRAGER: All right. Please continue.

COLONEL PAGANO: In going on, very candidly, I think the statement pretty much speaks for itself. We have had what I consider to be a good experience in New Jersey. The weapons we have brought here today, I think, too, speak for themselves. I'll be darned if I can see why any citizen -- and I know I part company with a number of major organizations, organizations to which I belong, and organizations that I appreciate-- But I'll be damned if I can see why any citizen needs a fully automatic weapon like this (demonstrates) with a silencer on it. That is the position that is taken when you look at what is being broadcast nationally with the NRA. They say that people should have access to machine guns and they should have access to silencers, and I say that for the public health and welfare of the people of this State, that is a lot of garbage. These are the kinds of weapons we come across.

ASSEMBLYMAN STUHLTRAGER: You certainly have an interesting array of things there. But, to be perfectly fair, the testimony we heard last week really didn't go to what

weapons per se are prohibited. You know, if you want to go into that, I would be more than happy to hear it, but that really wasn't the thrust of what we heard last week. Some of the questions I have asked so far, and a few other ones that were as much administrative in terms of the law, rather than--

COLONEL PAGANO: I think, Assemblyman, it is very difficult, again, to speak in the terms of the pristine purity of the statute and the legal words that are in that statute, and lose sight of why the statute was enacted. I think that is just absolutely not looking at the problem.

What you have before you-- Where is that thing from, Bob?

SGT. MAZUR: That is from an incident in North--

COLONEL PAGANO: I mean, where is it made?

SGT. MAZUR: Oh, in Finland.

COLONEL PAGANO: In Finland.

SGT. MAZUR: An anti-tank gun.

COLONEL PAGANO: That gun before you is one of the reasons why we have the Act we have. Prior to the Act, that anti-tank weapon could have been legally acquired, legally possessed, and probably legally used in this State. That is what that Act was intended to cure, because that particular weapon was seized from people who used it to destroy a multitude of private property. There is no reason -- no reason at all -- when you come into these kinds of hearings to talk about this Act, that you should ever separate the real world from the imagined world and the imagined ills we are talking about. I don't think you can demonstrate the effectiveness of this Act unless you look at some of the experiences we are having.

Let me just lay out-- I get hundreds of these messages each morning. And, you know, we have the responsibility-- I heard exactly what you said, Assemblyman, and I heard also, or I read, some of the material that was

brought in here last week about the complaints you have had. I can address those if you want me to. But here is what we run into each day: On State Highway 31 in Readington Township in Hunterdon County, an individual who happens to come from Sykesville, Maryland, was clocked on radar at 65 miles an hour. That trooper is not out there just to help the citizen who is in distress, or to control speed; he is out there to look for the kind of people passing through this State who are here and hellbent to do destruction in this State. The trooper stopped the car at 65 miles an hour in a 50 mile an hour zone. In plain view, there was a hypodermic needle and syringe. There were open cans of beer. Now, they are both violations of the law. That is the law in New Jersey. It has nothing to do with firearms, but it has to do with-- This is what the trooper saw.

There was a marijuana roach and a straw in the ashtray. Inside the glove box, after he placed the man under arrest, the trooper found ammunition; he found razor blades; he found a stray in there with white residue. He suspected cocaine. Right behind the seat of this pickup truck, there was a 20-gauge, sawed-off shotgun. It was 13 inches on the barrel, with an overall length of 18. It was a .22 Magnum. The weapon was homemade.

Now, I know that from time to time we have difficulties with the administration of the law, but the process always irons that out. But this is what we run into each and every day on the highways of this State. I don't take a back seat to anyone when it comes to what my patrol force does. If they don't get out there and work, they can go and find another job. I don't want them setting on citizens; I don't want them abusing citizens. But I want them to be polite, be firm, and not be naive. If I were to just take this weapons offense and take the position that has been taken consistently by the people who attack this Act, we would have

given him back that weapon. But that is not what we do in New Jersey, and I wouldn't change that one bit. I think that to look at this Act in the abstract is a mistake on the part of any committee.

ASSEMBLYMAN STUHLTRAGER: Let me ask you-- Do you have something else you want to say before--

COLONEL PAGANO: No.

ASSEMBLYMAN STUHLTRAGER: Well, let me ask you about confiscated weapons. When weapons are confiscated-- Well, I'll tell you about an instance that is familiar to me, because it was in the testimony last week. Someone was charged with a violation of a local ordinance in connection with trespassing on his property. It raised an issue where he pled guilty. His fine was suspended, because it was understood by the Municipal Court, basically, that the man might have used poor judgment at best, but he probably didn't do anything serious. The weapon was confiscated, and the police chief and the prosecutor, acted in good faith, I believe, because they simply didn't want to be the one who made the final decision. The weapon has not been returned. The individual is forced to expend funds to go to court, and so forth. At the same time, the irony of the whole thing is -- in this case and a few others -- he possesses other weapons, and under all of the circumstances, it seems that the process should have worked where the gun wasn't confiscated. Well, it should have been confiscated to begin with, let's say. I don't have any problem with that, as much as with the fact that it was not returned later on.

COLONEL PAGANO: I think that comes up rather frequently when you have those kinds of confrontations and there are judgments. Whether the chief knew he had other weapons or not, I don't know. I honestly don't know all of the facts in the case, but by and large, when you have those kinds of confrontations and there is no inclination on the part of the court to return that weapon, the confiscation remains



solid. If, in fact, that confiscation is challenged, generally you go back to that same court, and that judge has had an opportunity to see that individual, see his character, and see his conduct in court, and he makes that decision. Frequently, he makes decisions that are far -- in my view -- away from reality, but we live with those decisions. But that's the process. That is the process under which we exist.

I would like to purify that process if there is any way possible, but I am not sure that we can. There are going to be times, when you speak in terms of a million and a half -- or whatever the figure was that I quoted -- applications that we reviewed, in that mix throughout, where there are mistakes made. I am sure in that 1,094,000 we made a lot of mistakes. I am sure we probably let a couple of people go who hadn't ought to have been let go. But, by the same token, there aren't too many people who have been denied who overcame the challenge in court -- overcame it by challenging it in court. I think we do our very best within the system -- understanding the philosophy of the Legislature to begin with, to administer the system. The policy of this State is to restrict access to firearms to people who should not have access.

SGT. MAZUR: May I elaborate on what you were talking about?

COLONEL PAGANO: Sure, go ahead, Bob.

SGT. MAZUR: Mr. Assemblyman, just to elaborate a little bit on what you were saying about this one particular case, under 2C:64 -- New Jersey Statutes 2C:64 -- if a firearm is possessed illegally, acquired illegally, or used illegally, it is not necessary to convict the person of that separate act. In other words, you can arrest -- or, not arrest, but come across someone who received a firearm illegally five years past, and the statute of limitations has gone -- has expired -- and you can still confiscate the gun, because it does become contraband, the same as narcotics or any other illegal substance.

COLONEL PAGANO: In fact, that is the heart of the Act. Firearms illegally possessed, or firearms illegally used, revert. There is no property right in New Jersey to a firearm. It reverts to the State, and the State makes the decision as to what to do with it. I think, again, that might even go to what you were talking about, because a judge, in his own independent authority, can say, "Well, yeah, you pled guilty. It wasn't that major, but I am not giving you back that gun." That is the way we exist. To be very candid, I have no truck whatsoever with the Coalition. I have major differences of opinion with the NRA, as far as some of their positions in this area are concerned. Whenever we have a revision in the law -- the Administrative Code requires that we regularly review these kinds of things -- we do our very best to give the Coalition, and any other interested citizen, an opportunity to be heard. That is part of the process. We draw our regulations from there.

ASSEMBLYMAN STUHLTRAGER: One final question from myself: Some of the testimony last week really focused on -- I'll call it overzealous police work. I'm sure you must have a procedure by which you investigate any complaints that are raised, and so forth. The focus of this hearing is really not police misconduct; that is not what we are here for. But, since it did come up, could you explain how, when complaints are received, you generally handle them, because I did encourage those people who felt they had been wronged to ask for redress through your office?

COLONEL PAGANO: Every complaint received, be it anonymous, written, or oral, requires that it be documented, and that an investigation be conducted. I have gone through the material that I have been given as a result of last week's presentation, with the exception of the Gurski case, where we are still in court. We are being sued, both for the return of the cannon and some of the other material, and sued civilly.

Not one of those cases result-- In fact, some of them you can't even find, because they may not have been State Police cases. But not one of those cases resulted in an internal investigation.

As the reports come through on any of these cases, whether they complain about the conduct of the trooper or not, we routinely review them, and if we see that an error has been made, we will go to the prosecutor, and say, "I don't think this is really the kind of an arrest that should have been made, given the policy of this Division in this area." From time to time, we do that. But we investigate every complaint that is made to us. On the other hand, as I said before, I don't take a back seat one bit. You have an aggressive patrol force out there, and they are working in three program areas: First, to assist stranded motorists; secondly, to administer the Motor Vehicle Code; and then to look for interdiction of criminal activity, especially in the area of drugs. We have increased our drug activity twofold over the past month, and we are going to increase it more.

I don't want our people to be abusive ever. I want them to be polite, as I said, but they are not to be out there naively contemplating their navel either.

ASSEMBLYMAN STUHLTRAGER: Colonel, do you have anything else?

COLONEL PAGANO: I am open to any questions you may have. Outside of that, sir--

ASSEMBLYMAN STUHLTRAGER: Well, I believe I have asked all the questions I had. This is a process, as I said to those last week, that doesn't end here today. We are always looking at the statutes, whether it be this one or any other one. I don't think there is anybody in this room who would deny the difficulty of the law enforcement community in doing their job. It is not an easy job. We respect them for it. And, just as much as that, I believe the sportsmen community is a

law-abiding segment of the community. I don't think you disagree with that.

COLONEL PAGANO: I don't disagree at all.

ASSEMBLYMAN STUHLTRAGER: Trying to balance the difficulty of the policeman's job, the need for society to protect the public's health, safety, and welfare, and the legitimate rights of law-abiding citizens, is not an easy task. Maybe we are trying to split hairs and reach fine points here. We are never going to have a perfect system, but I appreciate your open-mindedness on looking at some of these things. I would hope that we all recognize, because it certainly seems apparent to me after last week, and after hearing your testimony, and hearing a few police last week, that there are many, many more areas of agreement and areas where our interests are mutual, than there are areas of difference. I do believe that some questions have been raised that deserve a looking into, and I appreciate your indicating a willingness to do that.

COLONEL PAGANO: Well, this is the process. As far as I am concerned, I think people, as I said, have the right to have access to firearms, as long as they are not challenged on the basis of their backgrounds. I read the material that was presented by the Coalition and, as you say, in the main I agree -- in the main, I agree. They spoke about the Constitution. One of the mandates of the Constitution is to "assure domestic tranquillity," and when you look at every major poll we have had in New Jersey, there has been strong public support for limiting access to firearms. That is what we are about, not to set on sportsmen, not to unfairly challenge a citizen's right to access or to travel, but not to be naive and foolish either.

ASSEMBLYMAN STUHLTRAGER: Colonel, do you want to stay while Ms. Bramson testifies?

COLONEL PAGANO: Sure enough.

ASSEMBLYMAN STUHLTRAGER: Victoria Bramson, from the Attorney General's office, thank you for being here.

V I C T O R I A   C U R T I S   B R A M S O N,   E S Q.: Thank you. I have given Ms. Nagle several copies of a statement prepared by the Division of Criminal Justice for your use. I am essentially going to go over some of the things mentioned there and then, of course, will be available for any questions.

I want to start by also noting the fact that on a nationwide basis, during 1986 -- and this is pretty much consistent over the last many years -- there have been approximately 20,000 murders. About three out of five -- almost 60% -- of those are committed with handguns. As the Colonel pointed out, in New Jersey, only 38%, or two out of five murders, are committed with handguns. Criminal Justice believes that our gun control law is effective. It is keeping guns from the hands of those who should not have them. In fact, that has been the purpose of the gun law since 1966, when it was originally enacted here in New Jersey, and it has been the purpose in the present version contained in the Criminal Code; that is, to keep weapons from the hands of those who are psychologically or mentally unstable, physically unable, alcoholics or those who use drugs, and the criminally minded, but to protect the interests of those who have lawful uses of them, such as hunting and fishing.

Now, some would argue that gun control would only keep guns from the hands of the law-abiding, or would put up restrictions to them obtaining guns, while the criminals have no trouble obtaining guns. Criminals do have trouble obtaining guns. The Colonel pointed out that many criminals try to get guns legally, but are unable to. The kinds of guns available on the street are often the cheaper varieties. Professional criminals, those who are maybe the higher echelon criminals, would often like a better quality weapon. That is more easily obtained by purchasing it from a gun dealer, using false identification, etc.



To that end, our background investigations in this State are absolutely essential. While it does take time, while it is, I am sure, inconvenient, it is very well-spent time, and protective of the persons of this State. Some opponents of gun control -- and this is laid out in more detail in our statement -- would argue that it violates the Second Amendment. That is simply not true. The Second Amendment provides specifically, and I quote: "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." The focus by those who favor the expanded use of guns is always on the last part, the right of the people. But this right of the people has always been interpreted by the Federal courts and the United States Supreme Court, to be a right of the people in connection with a well-regulated militia, meaning that this Second Amendment right to bear arms is not a right. The right depends, rather, on local legislation. (loud negative reaction from audience)

ASSEMBLYMAN STUHLTRAGER: Ms. Bramson, if I may for one second-- The audience has been very attentive, and we appreciate that. I would ask that we not make, you know, side-bar comments. Everyone is going to have a chance to testify, so if you disagree with one of the speakers, write it down, give us your name, and we will be happy to hear from you. Ms. Bramson?

MS. BRAMSON: As I said, the justification for the position I am stating is in the brief. It is the United States Supreme Court, as well as Federal courts and, indeed, the Supreme Court of this State, in Burton v. Sills, some time ago, has also reached the same conclusion. Nothing has happened since any of these cases to dispute the validity of what I am saying. The Second Amendment is a right of the people in connection with a militia. That is generally accepted as the National Guard these days.

People have a right to bear arms as their local legislation or local Constitution provides for them. In this State, we have no State constitutional right to bear arms. There are some states -- such as Illinois -- that do. A state is entitled, of course, to interpret their Constitution as they will. Our legislation does give certain rights to persons in this State to have arms, in connection with the background investigation, the registration, the seeking of a permit. What rights persons have in this State to bear arms are found in our laws, which is what we are dealing with here, but it is not a Second Amendment United States constitutional right.

New Jersey has had, for many, many years, certain restrictions on which weapons one can carry, even before we had the gun control law originally enacted in 1966. These regulations and inhibitions were always upheld because of the great public protective purpose in such laws. Our law carefully limits those persons who can obtain guns. As the Colonel pointed out, there are certain disqualifications. Specifically, if you have been convicted of a crime, if you are drug dependent, if you are confined for a mental disorder, if you are a habitual drunkard, if you are a minor under the age of 18, if you suffer from a physical defect or disease which would make the handling of firearms by you unsafe, or any other person where the issuance is not in the interests of the public health, safety, or welfare, you can be disqualified from obtaining a firearm.

I believe those disqualifications are reasonable. There has been some discussion over the last one -- the interests of public health, safety, or welfare. I think that is an essential component. A recent case in our office dealt with a person who had a very minor disorderly person, open lewdness, and marijuana use in his background. These would not be enough, under the present law, to prohibit him -- to disqualify him from getting a firearm. However, he has written

letters -- public letters -- saying that if he is not permitted a firearm, whose who deny him will be very sorry. He has harassed women in the prosecutor's office. He has followed other women. When one knows more about that particular case, even though none of the disabilities apply, he is not the sort of person you would want to have a firearm. He is presently in court -- Federal court -- trying to get a gun.

I'm saying to you that that last qualification -- the catchall -- is exactly for that kind of a case, where there is not a general category of disqualification where you can put the person. But when the court, as Colonel Pagano also pointed out, is confronted with the person, with that person's written papers, with that person's personal presentation, it is very obvious that this is the kind of person we wish to keep from having a firearm. As I said before, the background check is essential. It can find out those persons who are providing false information; it can point out the kinds of persons who have been confined to mental hospitals and cannot present evidence that they are now competent and safe to have a firearm.

The best way to achieve the goal of keeping firearms from the hands of those in whose hands they would prove dangerous, is through maintaining strict registration requirements and limits on transfer. The purpose of the present gun control law -- these permit requirements -- is to ensure, to the greatest degree possible, that the persons who should not have a gun, do not have one. It is not intended that any legitimate sportsman who wishes to engage in hunting or target practice or any such activity, which are certainly lawful, is to be prohibited. Our gun law, as presently drafted, does nothing to prohibit that.

The safeguards of the background investigation are absent when a handgun is transferred, even for a short period of time, into the hands of someone who does not have a background investigation, who does not have a firearms

purchaser permit, who has undergone no investigation. Because of that, and to prevent the kind of tragedy that has happened in Passaic County, I believe during the last year, where a young man committed suicide with a weapon handed to him on a target range, we have argued in Criminal Justice for a narrow construction of N.J.S.A. 2C:58-3a on the transfer of firearms. In the crossroads case -- you may be familiar with this -- during the last year, the courts agreed with our construction. I think that those kinds of transfers are important, because even at a target range, if there is not sufficient security, if there is not sufficient regulation to whom the guns are given, by whom, under what supervision, there can be serious problems. I know the Legislature has been dealing with some issues like this during this present session.

I believe our position is on record. I think that all transfers should be very carefully considered. The State should be involved anytime a gun is placed in the hands of a person.

Criminal Justice has been on record for a long time as opposing the carrying privileges of any person. Under New Jersey law -- there are certain limited exceptions -- the carrying of handguns by persons in their cars or on their persons is forbidden, unless they have a permit to carry. Now, there are certain exemptions to carrying, which are spelled out in N.J.S.A. 2C:39-6. There are high dangers associated when the citizens of a state are allowed to carry their weapons with them everyday on the street. Obviously, when one is transporting a weapon from one lawful place to another, and it is carefully packaged, not accessible from the passenger compartment, there are far more limited dangers. That is what our law requires. That is also what the Federal law requires.

As you know, there were some recent amendments to the Federal Gun Control Act. For the first time, the Federal law now addresses the interstate transportation of firearms. While

a person may carry a firearm, under Federal law and under New Jersey law, from anyplace where the possession is lawful to any other place where the possession is lawful, the Federal law requires that the firearm be unloaded, and that neither the firearm nor any ammunition being transported be readily accessible from the passenger compartment. When the vehicle has no separate compartment, the firearm and ammunition must be in a locked container, other than the glove compartment or the console. Thus, for example, if a truck driver were traveling through New Jersey, and he carried his firearm in the sleeper compartment of his cab, which ordinarily is directly behind and accessible from the seating area, or who carried the ammunition to his weapon in his glove compartment, he would be in violation of both State and Federal law.

He may lawfully carry his firearm in the trailer of his truck, under Federal law, or in a locked container. The Federal law also specifies that unless Federal law is in direct and positive conflict -- I'm sorry -- unless State law is in direct and positive conflict with Federal law, the State law is valid. Thus, the passage of the new Federal law did nothing to inhibit New Jersey's own law on transporting firearms. Anyone transporting a firearm which is either loaded or accessible through this State, will still be violating State law, and will be afforded no relief under the new Federal law.

In short, Criminal Justice still, and long has, favored a policy of limited possession of firearms, making sure that those persons who are entitled to have weapons, who have a lawful purpose in having weapons, have limited restrictions on them, but that those persons who have a disability, who are drug dependent, who are alcoholics, who are mentally incompetent, who are criminally minded, do not have ready access to weapons. We think this policy should continue. Background investigations are essential, and should not be shortened one iota.



We make reasonable regulations for persons who would use automobiles. We make them be licensed; we make them sure they are capable of handling automobiles. I want to point out that in order to purchase a firearm, there is no present qualification that someone be competent to handle the weapon. We would advocate that such a change be made in our law, that on applying for a permit there be a training requirement, even for every other citizen besides law enforcement officers. As you know, law enforcement officers now must be properly trained to handle firearms. It is somewhat ironic that other citizens have to show nothing other than that they are honest persons, to get a gun. There should be a training component in our law to show that they are competent.

I also wish to point out that in order to get a permit to carry a handgun, the law requires that you show -- that you indicate to the court that you have competence, that you are skilled in the safe handling, that is to carry a handgun. However, there is no standard in the legislation on how you show that, or what standard must be met. I think that is a deficiency in our present law. Before one purchases a handgun, we would advocate that there be some training requirement to show that the handgun will, in fact, be used safely. A lot of accidents happen every year. That would help to prohibit that -- safe handling of a gun, safe use of a gun.

ASSEMBLYMAN STUHLTRAGER: Let me ask you a question with respect to the background checks. One of the consistent complaints we heard was about the delay in getting purchaser I.D. cards approved. Is that an administrative problem, where you just don't have the time or the manpower? And second to that, is the same background check necessary for someone who already possesses a gun, who may have obtained it only a year ago? Is the same background depth necessary as with an initial purchaser?

MS. BRAMSON: You may have as many long guns as you wish with one Firearms Purchaser Identification Card. But, to get a handgun, you have to have a new permit to purchase -- I'm sorry -- to get a permit to carry-- No, that's not true. To purchase a handgun, you have to have a particular purchaser permit. To carry, you have to have a permit to carry. It applies to every handgun you own, but you have to have it--

ASSEMBLYMAN STUHLTRAGER: Aside from the carrying, I am just talking about--

COLONEL PAGANO: As a matter of administrative process, if it is within the year-- We have to give you a yes and a no to your two questions, Assemblyman. If it is within the year, we don't expect a complete, full background investigation. We short-stop it, because I think -- as in part of a response Ms. Bramson made -- the difficulty is volume; the difficulty is manpower; a variety of things. If there is any real difficulty in the administration of the law, it is sometimes the time factor. We have people who have had emotional problems, who legitimately should have a firearm, but it takes time to find a doctor to say they are okay. There are a variety of things that come up that slow the process down.

ASSEMBLYMAN STUHLTRAGER: Ms. Bramson, thank you for your testimony. I think, Colonel, this question is really more for you, and I neglected it before. I think underlying most of the testimony we heard last week, and will hear later today, is a feeling -- a feeling that maybe you, yourself-- You were mentioned, and you read the transcript, I suppose, so I will give you an opportunity to respond to it. It is more of an anti-gun attitude, regardless of who the person is, whether he is criminal bent, or a hunter on his way out to hunt; that your administration is anti-gun and then, in effect, anti-person, because of violations. Could you respond to that?

COLONEL PAGANO: Nothing could be further from the truth. I would say, for the benefit of the people behind me,

that we have come a long way in the past 21 years, because 21 years ago, in those late-night meetings in the Assembly gallery, we could not have made that statement without a roar and stuff flying down out of the top. I wonder whatever did become of Burton anyhow; he's gone someplace. But, nonetheless, nothing could be further from the truth.

When we assign people to this kind of work, we look for people who understand what the issue of guns and people with guns is really about. If we have anti-gun types, whoever would come from the ranks into that kind of an assignment--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Would you speak up, please?

COLONEL PAGANO: Sure. I say, if we ever have people who are anti-gun types in that assignment, I am sure we get them out very quickly, but I don't know that we do. In fact, to the contrary, what we have in those assignments, in the main-- I know the two people around me are gun buffs, and they -- I didn't say gun nuts, I said gun buffs -- understand what people want. When they legitimately ought to have guns, they do everything they can to move the system. I am not anti-gun at all, but I am pro-registration; I am pro-control of people. That is about the thrust of it.

ASSEMBLYMAN STUHLTRAGER: Before I release you -- or before you are ready to go -- I would like to introduce Assemblyman Dick Kamin, who was kind enough to join us today. We did have Assemblyman Bocchini, who had to step out to another meeting. Assemblyman Kamin, do you have any questions for the Colonel?

ASSEMBLYMAN KAMIN: Not at this time, thank you.

ASSEMBLYMAN STUHLTRAGER: Thank you. Colonel, Ms. Bramson, I would like to thank you both for joining us today.

I am going to take a five-minute recess to give you an opportunity, you know, to dismantle your--

COLONEL PAGANO: Dog and pony show.

ASSEMBLYMAN STUHLTRAGER: --dog and pony show. We will resume with our next witness in five minutes. Thank you very much.

(RECESS)

AFTER RECESS:

ASSEMBLYMAN STUHLTRAGER: If I may have everyone's attention, I think we can get started again. At this time, we are going to hear from Middlesex County Prosecutor Alan Rockoff. Mr. Rockoff is going to specifically address his policy concerning firearms and domestic violence disputes. His policy was brought up in last week's testimony. I certainly appreciate your taking the time to be here today, Mr. Prosecutor, to give us your rationale and, in effect, your version of this policy. Thank you very much.

A L A N A. R O C K O F F, E S Q.: Thank you very much, Mr. Chairman. I appreciate the opportunity to speak--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Can't hear you.

MR. ROCKOFF: I appreciate the opportunity to address this Subcommittee, Mr. Chairman. I realize what a sensitive and emotional issue the entire area of registration of firearms is to many people who are legitimately the owners -- the registered owners -- of firearms.

My background is a little bit different than many prosecutors. I spent 11 years on the New Jersey Superior Court bench, as well as the County Court and the Juvenile-Domestic Relations Court during that period of time. Many of those years I spent as the judge who was assigned the appeals of denials of permits to purchase handguns and to carry handguns. Mr. Irwin, the distinguished counselor for the Coalition, and I know each other from the experiences when he appeared before me, and I think he would recognize that during those years I

took a very responsible position with respect to the issuance of permits and the overturning of denials of permits, based upon the legislation. As a prosecutor, I deem it the mandate of my office to do exactly the same, to deal precisely with the legislation and the law of the State of New Jersey.

In 1982, a Domestic Violence Act was passed by the Legislature of the State of New Jersey and signed by the Governor and became the law. That Domestic Violence Act was precipitated by the major problems that existed in the households of our State, where many women were complaining that they were getting short shrift by law enforcement officers and by the courts, with respect to their domestic disputes. The Act, as so many acts, was sensitive to that problem and, in addition to all of the various assaultive criminal acts that are in existence in Title 2C, the Domestic Violence Law was placed in Title 2C in order to accommodate and to compensate for this perception that existed with battered and brutalized spouses and cohabitants in our State, that they were not being considered fairly by law enforcement.

Now, that particular law has a legislative declaration, and in 2C:25-2, the Legislature declared that there are thousands of persons in the State who are regularly beaten, tortured, and, in some cases, even killed by their spouses or cohabitants. Further on in that declaration, it states: "If the Legislature finds that battered adults presently experience substantial difficulty in gaining access to the protection from the judicial system, particularly due to the system's inability to generate a prompt response to an emergency situation--" It is in reaction and in acknowledgement of that mandate that prosecutors, not only in Middlesex County, but also in Union County and in Monmouth County, over the year and a half experience we had after this law went into effect, recognized the need to do something more than just give lip service to the language of the Legislature.



As a matter of fact, we realized this a little too late, because in Linden, New Jersey, there was a tragic murder/suicide of two people because of a domestic violence dispute, where a woman filed a complaint for domestic violence, and then returned home, only to be killed by a handgun at the hand of her husband, and then the husband committed suicide, using that handgun.

Now, at the outset, I must dispel the perception that exists that police officers in Middlesex County, or anywhere else where this policy is in effect, come into a home where there is a domestic dispute and just rampage through the home to seize weapons. That could not be further from the truth. This policy we have -- which is also applied in other counties -- is only put into effect when there is a call from an abused spouse that indicates that she is in a domestic violence situation, as defined by the law. Domestic violence means that there is probable cause to believe that one of the various factors that are set forth in the statute exists; that a person is being assaulted, kidnapped, criminally restrained, falsely imprisoned, sexually assaulted, criminally sexually contacted; that they are the victims of lewdness, criminal mischief, burglary, or harassment -- that those acts are occurring. Only in those instances where police officers are called to the scene, and where there is collaborative proof that one of those criminal acts, or one of those activities is occurring, does the seizure of any type of firearm become operative.

When that occurs, the police officer knows his limitations by virtue of the Seizure of Firearms by Police Officer Responding to Domestic Violence Calls Directive, which was established by my office on October 1, 1985, and which I have provided copies of to the members of this Subcommittee. When they respond and there is a gun -- a firearm -- that is within plain view, they are instructed not to seize for the

purpose of confiscation, that firearm, but to take that firearm into custodial care. There is no confiscation of that firearm. I must say that as if it is etched in stone, because there is always a remedy for its return.

The remedy for its return is either the acceptance by the prosecutor that there, in fact, is no crime, and, therefore, there was insufficient probable cause for the police officer to have taken that woman down to the court, or down to the police station, to file the temporary restraining order in her behalf, or that there is sufficient reason for the weapon to be returned in order to assist the household to get back together again in its nuclear unification, as we try to understand family relationships today -- so that they can become a family unit once more, without any harassment.

ASSEMBLYMAN STUHLTRAGER: Mr. Prosecutor, may I interrupt with a question?

MR. ROCKOFF: Go ahead.

ASSEMBLYMAN STUHLTRAGER: In real life, in your tenure as prosecutor, what percentage of the cases-- How many guns have you seized, in general numbers? How many have been returned, or what percentage have been returned? And, how many of them have been returned without resort to a motion before a Superior Court?

MR. ROCKOFF: I can't give you specifics. I'm not prepared for that. I didn't have enough time during the last couple of days in order to go over the percentages. I would say that in the majority of the cases, we are requiring the individual to go to a court, for the purpose of the court evaluating the situation that exists, in order to determine whether or not the credentials are in place, and whether or not there is any objection on the part of the spouse who has been abused, or whether or not there is any continuing criminal activity, or criminal complaint or indictment that is still pending at the time that the request is made for the return of the firearm.

In so many of the cases, the whole purpose of taking that weapon is in order to dissipate and to dispel and to prevent the potential violence that occurs. If two out of five murders in our State now -- as was testified to by Victoria Bramson and Colonel Pagano -- are caused by handguns, then this policy we have may very well be keeping that figure down. In dealing with practicalities and dealing with realities, one of the worse problems that can exist in a person's life is a domestic problem. It is one where there is such hatred and anger and bitterness, that reason just becomes overwhelmed by emotion. When that occurs, you must take away the immediate means of causing injury and death -- the only lethal weapon that is around the household. There are other weapons that could be used. A person could take up a table and throw it, or take a chair and throw it, or a knife, or any of those other items, but the only weapon that is designed for one purpose, and one purpose only, is the handgun or the rifle or another type of firearm. It is designed for one purpose only, and that is to maim or to kill. That is the one focus that individuals would seize on immediately to use against another person, in that kind of a situation. When that situation is dissipated, when it is neutralized, when there has been the hugging and the kissing and the making up, then it is time for a judge to make a decision as to whether or not that household has been sufficiently reestablished to give that weapon back -- not before then.

ASSEMBLYMAN STUHLTRAGER: As I learn more about your policy here, and I am very appreciate of your coming, it is not so much the voluntary giving up of the gun, or even the seizing if the gun has any involvement in the dispute-- Let me give you a hypothetical that occurs to me: The police are called to a house -- and I am a local prosecutor; not at your level, but a local prosecutor, so we see these things every week-- The police come to the house. Let's assume there is a shotgun on

the wall over the fireplace. They seize the gun. Your position is that when the situation is dissipated, it is appropriate for the gun to come back, but only through a judge.

I guess my problem is, why the court? I mean, let's assume arguendo, for the sake of this discussion, that the initial seizing of the gun is in the best interest of the public health, safety, and welfare, both generally and in a particular instance. But why force the people to get an attorney, to go to court? If you are using your discretion to put this policy into place, why not use your discretion to return the gun?

MR. ROCKOFF: We don't believe we are using our discretion to do this. We believe it is mandated. When a police officer comes upon a crime scene, he has to seize the elements of the crime, or the potential to commit an enhancement of the crime. When a police officer comes to a household, he is not coming there for tea; he is not coming there as an uninvited guest because he wants to do a random search of the household. He is coming there because some frightened woman, or some frightened cohabitant -- it could be a man -- has called and said, "I am being attacked," whether it be physically or mentally, "I am being attacked, and I am afraid. Please come and help me. Help me to go to the court to get my temporary restraining order, so I will be protected."

Now, once you use the court for that protection, then we in law enforcement are not judges and juries. We are not in the business of making the discretionary decisions that you believe we might be entitled to. It is up to the judge to make that decision, as to whether or not that situation, once he hears all of the evidence on both sides, is sufficiently neutralized, sufficiently resolved, for him to return that weapon.

I know you are not talking about this because of your own statements, Mr. Chairman; you are talking about it because



of statements that have been made to you. You're saying there is an involvement with a lawyer. You are saying that there is an obligation on the part of the gun owner to spend money with respect to that weapon. There is no need for that. He can come in himself, pro se, and ask for the return of that gun. There is absolutely no filing fee required. There is no effort on his part, except to go to the clerk of the court and ask him how he applies to get his gun back. Or, he can come to the prosecutor's office, or the chief of police, and he can ask that same question, and the gun -- the apparatus, the method of returning that gun will be explained to him. There is no need, if there is a legitimate right, if he has a permit and there is no case pending, and there is no prosecution pending, and there is no argument to the contrary by the offended spouse -- there is no reason why that gun will not be returned. We will help him to get it returned.

We are not confiscating guns. We are not anti-gun. All we are is pro-law. The law says you have a permit to have a weapon, as long as you use that weapon lawfully. In a situation where the Legislature has spoken, and indicated that in a society where people are killed by their spouses and cohabitants, we -- as you said before -- have an obligation to the health, safety, and welfare of the community, and must take that gun into custody and withhold it from that individual until the right time has come.

Now, we don't go to the house and look for that gun. That is another--

ASSEMBLYMAN STUHLTRAGER: That was my next question. Let me ask that question, another hypothetical: The police come to a house. The parties are in the living room/kitchen area. The allegation is that the husband threw a vase across the room at his wife -- an assault situation. There is no gun in plain view. The question comes up, "Do you have a gun in the house?" I'm reading your policy here.



MR. ROCKOFF: Right.

ASSEMBLYMAN STUHLTRAGER: "Do you have a gun in the house?" "Yes, I have a shotgun. It is up in the attic in a trunk." "Well, can we have the gun?" "Well, no, you can't have the gun."

Is your policy such that you, as prosecutor, would authorize the issuance, or support the issuance of a warrant to go back in to get that gun?

MR. ROCKOFF: I would not ask for it, nor, in my experience as a judge, would any judge think that that was probable cause, to seize that weapon, at that point.

ASSEMBLYMAN STUHLTRAGER: Okay. I was just reading what you have here.

MR. ROCKOFF: All right. I know what you're saying. There are two sides to this: In that particular directive, it indicates that where consent is given -- where consent is given -- we have the right to ask for it. If they say no, then we do not have the right to search for it.

ASSEMBLYMAN STUHLTRAGER: I was reading the next sentence, "The scene should be secured, while the officers contact police headquarters." Would that be done in a hypothetical like I gave you?

MR. ROCKOFF: It would be done in the hypothetical. No warrants are issued in the State of New Jersey, unless an assistant prosecutor from a prosecutor's office is contacted. You know that; that's policy in the State of New Jersey. The assistant prosecutor then has to make a determination as to whether or not there is probable cause to obtain a search warrant.

In the type of situation you have given, where there is a single vase being thrown, where there has been no contact, where the woman is not asking for the weapon to be taken, where there is no injury to that woman, and where the gun is grandma's or grandpa's old relic from the Civil War, and it is

inoperable and rusting up in the attic, no judge is going to give that. (negative response from audience)

ASSEMBLYMAN STUHLTRAGER: Let's not turn it too much, okay?

MR. ROCKOFF: Okay, I won't characterize it too much.

ASSEMBLYMAN STUHLTRAGER: Okay. Let's take it one step further. Let's say the same situation: The gun is upstairs in the attic. It is an inoperable gun. The ammunition is up there with it -- not in it, but with it. There is no suggestion at all that that gun had any relationship to the dispute between the husband and wife, but for the fact-- Let's say the vase hit her in the shoulder. I want to make sure this is clear. It is a domestic violence situation, without a doubt. The husband would be adjudged guilty of domestic violence. I just want to know, under those circumstances, would that gun be seized and, if so, what would the return policy be? I am assuming still the court.

MR. ROCKOFF: The domestic violence statute states that police officers must require training from the PTC with respect to how to enforce criminal laws in domestic situations. Police officers also receive training in what probable cause is. It is more than just a mere hunch. It has to be a reasonable expectation, reasonable articulable suspicion -- that type of thing. The police officer who sees that scene, where the man has thrown a vase at a woman, and the woman has been hit at the shoulder, has to make a determination as to whether or not that is the tip of the iceberg; has to make a determination as to whether or not that is the beginning of a major confrontational, consequentially violent act on the part of these two people.

What will happen if he turns around and leaves with that woman, and she goes and files her TRO for the throwing of the vase, and then he returns her to that home knowing that there is a weapon upstairs that is fully operable? In that

situation, I would say, based upon the experience, and based upon the integrity, and based upon the prima facie acceptance of a police officer's honesty, integrity, and decency that we must give in our society in order to have law and order in this society, the gun should be seized.

ASSEMBLYMAN STUHLTRAGER: Okay. Well, you explained your policy. Is there anything more you want to expound on? I think you have answered my questions about how you are implementing your policy.

MR. ROCKOFF: What I am saying to you is, our policy is not designed to seize and confiscate and destroy weapons. It is designed solely to implement the intent of the domestic violence law, so that women now know they do not have to fear coming back into a household after-- You know, we're dealing in reality. The temporary restraining order is just a piece of paper. That woman has to come back in again. Time and time again, in countless war stories that any prosecutor can tell you, women have gone back into their homes again, and have been beaten, threatened and, in fact, injured again, even though they are carrying their TRO.

Now, in order to keep them from being shot, I think our policy is a fair one, a sound one, and it should be maintained.

ASSEMBLYMAN STUHLTRAGER: Mr. Prosecutor, thank you very much for taking the time to come here to explain your policy.

MR. ROCKOFF: Thank you very much for inviting me.

ASSEMBLYMAN STUHLTRAGER: You're welcome.

Mr. Charles Irwin, Counsel to the Coalition of New Jersey Sportsmen. Welcome back. Mr. Irwin testified last week, and his testimony is available as part of the transcript. Mr. Irwin, if you would like to make a few brief remarks here-- I trust you are not going to tell us everything you told us last week.

C H A R L E S   J .   I R W I N ,   E S Q . : I am not going to go too long, no, but there are some things that I think need to be addressed on behalf of the sportsmen -- the members of the Coalition of New Jersey Sportsmen.

Mr. Chairman, you pointed out, and I think very properly so, during Colonel Pagano's testimony, that it seemed to you that there were more areas of agreement than areas of difference. I think that was an appropriate comment under these circumstances. I think there is a misconception with respect to the intention of the sportsmen in coming before this Subcommittee at this time. We are not looking to roll back the clock. What we are looking to do is to take a look at what has happened over the last 20 years with respect to the implementation of these laws.

Now, Colonel Pagano placed on the record certain statistics, which were suggested as supporting the view that the Firearms Act, as it is presently constituted, in fact, is working, and that crimes are, indeed, being diminished as a result of it. We all know, certainly as legislators and lawyers, that we can find a set of statistics to prove almost anything. I think the real question, and the question we are bringing to the Legislature, is-- Let us assume for the moment that those statistics are correct. You will hear later that they are not, but let's assume for the moment that they are correct. The question we are bringing is, what is the price? In order to perhaps seize a bunch of these junky firearms that were brought in here for the dog and pony show, what is the cost to the average citizen who is law-abiding? We have been laying before the Committee what some of those costs are.

What are we really talking about? We have, in New Jersey, a statute that says you may carry a rifle or shotgun, for example, in your vehicle, if you are going to or from a range -- whatever that means, because that is not defined in the Act -- or if you are going to or from a gunsmith, or if you



are moving the firearm from your home, or if you are taking it from the place of purchase. There are a whole bunch of areas where you are permitted. We have police officers who come upon a car, and when they find that there is a firearm in the car -- and let's say in this case that they legitimately find it-- What are they to do at that point? Are they to sit down with 2C:39, and say, "Well, let's see. Will you answer these questions, please, so I can figure out whether or not you are in compliance with the law?" Of course, they are not going to do that. So, what they do, is made an arrest, on the basis that this is probably an illegal possession.

We want to get them out of that position. We are not in a confrontation here with the police officers of the State of New Jersey. We are not in a confrontation with Colonel Pagano. What we are doing is saying, "Yes, there are some bad incidents going on here, and we want you to know about those." We're saying, "We've got a law that is so complex, that even the Superintendent of the State Police sitting before this Committee, in response to questions, does not know what the law is." I say that with respect, and not in any derogation of the Colonel.

But, in response to your question, when you asked him about the Firearms Identification Card-- You said, "Has it changed? It was really put together as a permit to purchase, and now it seems to be a carrying permit." He indicated that essentially it hadn't changed; that it is a permit to purchase. But there is case law in this State that clearly says, that in order to have a firearm within the (inaudible) under certain circumstance, you've got to have a Firearms Identification Card.

So here is the Superintendent of the State Police, who really is not aware of that, and he can't be aware of every change in the law. But that is our point. Neither can the officers who are out there. They are dealing with a very



complex statute. I have spent about 20 years with this statute, and I still have to go to the language, in order to know whether there is a violation or not. So, what do we expect from the police officers? The answer is, we've got to simplify it. We've got to get uniform application of that law, so that the law-abiding citizens of this State know what it is they are required to do. That is really what we are talking about.

Now, the weapons that were here--

ASSEMBLYMAN STUHLTRAGER: Mr. Irwin, just one question.

MR. IRWIN: Yes?

ASSEMBLYMAN STUHLTRAGER: Would a requirement-- I mean, if you wanted to clarify it, the easiest way to clarify it -- maybe I am not sure it is acceptable to you or your group -- is simply to say, "If you are going to transport a gun, you have the I.D. card." Now I know it doesn't reach out-of-state, but the Federal law would reach the out-of-state person. Is that objectionable? It would certainly be clear. Now, if it is objectionable, on what basis is it objectionable?

MR. IRWIN: Well, you know, we think that once you have a firearms identification card, you should be able to transport, but the law now deals with, you know, if you have a hunter's license, you don't have to have it if you are going to or from here or there. I think that does need to be clarified. I am not prepared to respond to whether the sportsmen of this State support, "Yeah, an identification card, and that's it." If that became a basis -- and this would be our concern -- for diminishing the number of people in the State who would have access to firearms, that would be a matter of concern. There are also many sportsmen who really do not want to be involved with what they call "government registration." They are satisfied, if they are hunters, to get their hunting license at the appropriate time, and do their hunting. So, they really don't want to be involved with a

Firearms Identification Card. They have as many firearms as they want, and they don't want to be involved with that.

So, there would be a difference of opinion. We will explore that, so that we can provide additional information to the Chair.

ASSEMBLYMAN STUHLTRAGER: It would, on the positive side, let's say, give the law enforcement community a more clear standard of what constitutes probable cause. If there is no card, then maybe you are moving in the direction of reasonable suspicion there. If there is a card, that would seem to allay those fears from the outset.

MR. IRWIN: That may be an appropriate approach. I am not suggesting at the outset that it is not.

ASSEMBLYMAN STUHLTRAGER: The Committee would appreciate your consulting with your group and, at some point, letting us know what your thoughts are on that.

MR. IRWIN: Yes, sir. Additionally, as you may or may not know, there is legislation in with respect to the permit to purchase, a problem that you have alluded to. The Colonel indicated hundreds of thousands of applications. Well, if a person buys 50 handguns in a year, or more -- and some collectors may -- he has to go through the process 50 times. Now, the Colonel says, "Well, if it has been done within the year, we may not require that," but many chiefs do. That is where we need some kind of uniform application.

On the table here there were sawed-off shotguns, guns with silencers, etc. These have nothing to do with the people I represent whatsoever.

ASSEMBLYMAN STUHLTRAGER: Let me ask a question: We saw a variety of weapons. I couldn't begin to tell you what many, if any of them were. But, what is your group's position with respect to the weapons we saw there? Are they the weapons we talked about during the course of last week, and what we will hear about today?

MR. IRWIN: Absolutely not. Sitting right here on the table was a sawed-off shotgun. That is a violation of State and Federal law. The people I represent do not have sawed-off shotguns.

ASSEMBLYMAN STUHLTRAGER: And if they did, you would have no complaint with them being charged for such?

MR. IRWIN: Absolutely not. There are clear reasons why those are violative. The sportsmen of the State are not involved with sawed-off shotguns. Neither are then involved with firearms with silencers on them, and there were a number of them here -- or there appeared to be a number of them with silencers on them here. Those are violations of Federal law and of State law.

I heard one of the dealers that we represent comment with respect to the anti-tank gun that was out here, that he hasn't sold one of those for some time. (laughter) I suspect you won't find too many of them in the private collections of the people who are represented by the Sportsmen's Coalition.

So, those are the things we are talking about. We are talking about a fellow who has a shotgun who likes to go hunting, and really doesn't want to go through a lot of harassment to do it. He is willing to give up some of his freedoms in order to be assured that criminals don't sport guns, but what we want you to look at is, what are we giving up here, and how is it being enforced, and is there a need for some rectification? We think the evidence is clear.

The testimony of the Deputy Attorney General-- I really only have one comment with respect to her testimony, which was kind of an elucidation of what the law is. She did say something that startled me, and I must comment on it; that is the position that, if there are any changes in the law, whenever there is an application for a permit there should be a training requirement. Now, I think the sportsmen in the State are entitled to know whether that is the position of Attorney

General Cary Edwards, or that is the position of the Governor, and whether that is even the position of Colonel Pagano. I think it is not, in any case. I think it is her personal position, but I think if it is not, if that is the position of the Administration of this State, we need to know about it, and we will call upon those officials to indicate if that is so or not. I am satisfied that it is not, but I think it ought to be formalized.

ASSEMBLYMAN STUHLTRAGER: My understanding of the hunters'-- I mean, hunters' safety courses are reknown, let's say. What are your thoughts on training?

MR. IRWIN: Well, with respect to many kinds of collections, there are many firearms that are collected, never to be fired. So, there are people involved in the collection of firearms who are never going to put a charge into a handgun or a rifle. The value of what they collect, in many instances, is the fact that it is in mint condition and has never been fired. I think it is most inappropriate for a Deputy Attorney General to announce that policy, which is a very far-reaching and very significant policy change in this State, unless there is clear evidence that the Administration of this State backs it.

Now, turning, if I may, to the domestic situation, I have just a few comments on that. I have the highest regard for Prosecutor Rockoff. As he indicated, I appeared before him when he was a judge. I also think that his intentions are the best. That is where we part company, because what he said, it seemed to me as I listened to him here today, is that when a police officer comes on a crime scene, at that point he is entitled to seize a firearm. I don't have a problem with that. But I do have a problem with the notion that there is some kind of a directive that ought to go out about domestic violence. If it is a crime scene, we don't need the directive that Prosecutor Rockoff sent out. If what he is talking about,

and he seemed to speak in terms of the potential for escalation-- If an officer arrives at a scene and there is a domestic problem going on, and he foresees that there is a potential for escalation, and that that escalation may then involve the utilization of a firearm, he should seize that firearm. I think that is what he said.

Now, I take that immediately out in the street to a fender bender. When an officer comes upon the scene, and two people are engaged in a motor vehicle accident -- and they can get pretty heated-- If you have ever been hit, it goes to the emotions very quickly.

ASSEMBLYMAN STUHLTRAGER: If you have ever been to California-- (laughter)

MR. IRWIN: Then the question becomes, if they are arguing and the officer perceives that the argument is going to escalate, is there similarly grounds for asking, "Do you have a firearm in your car, because if you do I would like to see it?" There just isn't any basis here for this whole policy.

I continue to suggest that it is violative of the Fourth and Fourteenth Amendments, and that there is a confiscation here, not because the intentions are not good, but because when the persons come back and say, "Okay, I would like my firearms back now," the prosecutor, quite rightfully, thinks to himself, "Now, should I give them to them or not, because if I give them to them and then they shoot one another, it is going to look bad for me." When they go to the court, the judge, quite appropriately, is going to think the same thing. The answer is, they should never have been seized in the first place. Unless there is some demonstration that there was a crime in process, there should never be a seizure.

With respect to that, the ACLU -- the American Civil Liberties Union -- has filed with this Committee a letter, dated September 15, 1987 and, if I may, I would just like to put a couple of excerpts on the record. I know the full letter will be included in the record.



This letter is signed by the Legal Director of the American Civil Liberties Union. He says, in paragraph one: "The ACLU does not take a position on gun control and the appropriate forms of regulation concerning firearms. Rather, we focus on possible constitutional violations in the course of administration of the existing or any proposed firearms regulations. We submit these comments at this time because of our concern over certain county prosecutors' policies directing confiscation of guns when police have contact with family disputes.

"There are actually two separate problems: First, the development of policies in a few counties, contrasted with the lack of policies in others, as well as the variation among articulated policies, leaves the administration of our gun laws needlessly-- (tape malfunction here; part of sentence lost to transcriber) That enforcement will be the same regardless of the location of the gun. To ensure uniformity of treatment, some action on a State level, by the Legislature or the Attorney General, may be appropriate."

That is precisely what we are saying to this Committee; that we ought not have county prosecutors in individual counties making the law of this State. That is the job of this Legislature.

I have one further comment in one other area. This really doesn't go to the issue of firearms control, so much as it does to another constitutional issue that has come up in these hearings, that is very troublesome to me. That is the testimony indicating that citizens, in cases before you -- law-abiding citizens -- who have been arrested, have not been afforded an opportunity to contact anyone by telephone and, as a matter of fact, have been advised by the arresting officers that they have no such right; that being under arrest does not give them the right to call a lawyer, or anyone else.

I was concerned about that, and I really never looked at it before, so we did a little research to see whether that is so or not, and it is so. There really isn't any law in this State that requires a police officer -- an arresting officer -- to allow someone who has been accused and arrested, to make a telephone call to obtain an attorney. I suggest to you, Mr. Chairman, that the Legislature should look at this, because it seems to me that under the Sixth Amendment of the Constitution, which gives us the right to counsel, and the expansion of that right by the Supreme Court of the United States with the Miranda rule-- It really is a hollow right, to provide a man, or an accused with the Miranda warnings -- "You have a right to counsel; if you don't have the means of obtaining counsel, one will be appointed for you," etc.-- It makes no sense to say that to him, if then he does not have the capability of contacting a lawyer. It would seem to me that that becomes a hollow right.

So, I would suggest, aside from all of the other things that have come up, that the Legislature give some attention to the fact that there ought to be a provision in the law that provides that in addition to whatever warnings are required by Federal or State law, the opportunity to contact counsel should be available.

Thank you.

ASSEMBLYMAN STUHLTRAGER: Thank you. Before we move on to the other witnesses, Assemblyman Bocchini, Assemblyman Kamin, are there any questions for Mr. Irwin? (no response)

We have time, so I would like to take at least one more witness before lunch -- someone up from my own area, Robert Wygand. Mr. Wygand, would you come forward, please? Have a seat. Mr. Wygand, as last week, I will certainly afford you the courtesy of joining some of the witnesses at the counsel table, if that is your pleasure.

R O B E R T   J A M E S   W Y G A N D,   J R.: Thank you, Mr. Chairman.

ASSEMBLYMAN STUHLTRAGER: Mr. Wygand, please give us your full name and address for the record.

MR. WYGAND: Okay. My name is Robert James Wygand, Jr., R.D. 2, Box 20, Salem, New Jersey.

ASSEMBLYMAN STUHLTRAGER: All right. Thanks for coming today. What do you have to say to us?

MR. WYGAND: It concerns my arrest for unlawful possession of a weapon. That comes under 2C:39-5. I had been in Virginia for several years, so I was moving back up here. When I came up, I left my belongings and some other things that were in the back of my truck at my mother's house, because I had to go to a job interview. I went to the job interview; I secured the job. After I secured the job, I stayed there for about two weeks while I looked around and found a house to live in, so I could move my family up.

After those two weeks passed, I found a house and got everything squared away. Friday morning, I was going to move into the house with my possessions, so Friday morning I loaded everything back into the truck, and proceeded over to the house. Well, on the way to the house, I stopped at the Wawa for a cup of coffee. In the back of the truck -- this is an open truck-- They are very confusing -- the New Jersey laws -- concerning what you do with a handgun in the back of an open truck, because there is nothing in the statute that says what to do with it. You can't have it in the operator's vicinity, nor can you leave it in the back.

So, when I stopped at the Wawa, I took the gun out of the suitcase it was in, and put it in the truck. I went in and got my coffee, and I came out with my coffee. I was going down the road, when a State trooper came up behind me flashing his lights. So I pulled over. I had some pro-gun stickers on the bumper of the truck and on the back window. He asked for my

documents, and I gave him my documents. They were all okay. He said, "I stopped you because you were weaving. Have you been drinking?" I said, "No, sir, it's six o'clock in the morning." He said, "Well, that's all right. People drink at six o'clock in the morning." I said, "Well, I haven't been drinking."

I had to get out of the truck and walk the white line and touch my nose, and the various other little things you have to do. He said, "Do you have any weapons in the truck?" I said, "Yes." I told him where they were. He went to the cab of the truck, and came back and placed me under arrest. I had to leave the truck there. He left it unlocked. I had a few thousand dollars worth of things in the back of the truck -- open -- and it just sat there on the State highway while I was going through the process.

He was a fairly nice fellow. He told me, "I'll tell you what is going to happen to you. You are going to do PTI. You are going to have to pay an attorney. They are going to confiscate the gun and destroy it, and that will be about it." He said, "Or else they will dismiss the charges. It's not really that bad." I didn't know. I am not familiar with criminal law; I am not a criminal.

After the arrest, I was indicted by the grand jury. I wasn't familiar with that either. I had to go down and be arraigned. So, I was arraigned. I was looking for a lawyer, but I couldn't find one, so I went to the Public Defender's office, and the Public Defender said, "Sure, okay, fill out these forms." So I filled them out. I went about a week later for the arraignment, and the guy is in there pleading me guilty. I got rid of him, and hired another attorney. At that point, I was approached about PTI, because I had to be in the PTI Program by a certain date, or I couldn't get in it at all. I told the attorney I didn't think that would be the approach to take, because I didn't feel that I had committed the crime



they said I had committed, which was unlawful possession of a weapon. the weapon was registered in my name, and had my Social Security number etched in it. It is a legal weapon, legally purchased in a gun shop. It may have been transported in an improper manner, but they are broadly basing this law on criminals, not the average citizen. If you've got a gun, you're a criminal, and that's it.

ASSEMBLYMAN STUHLTRAGER: What ultimately happened to you? Did you take PTI, or did they try the case?

MR. WYGAND: I did PTI. I heard the prosecutor who was up here a while ago say, "Go and talk to the prosecutor." I couldn't even get near the prosecutor's office. The only thing I could do was go to my attorney, he would go to the prosecutor's office. In other words, talking directly to them, I couldn't do.

ASSEMBLYMAN STUHLTRAGER: The type of access the former witness talked about was not available, in your case?

MR. WYGAND: It was not available to me, no, sir. When I went to sign up for the PTI, they told me I had to sign a form relinquishing the weapon, and I wouldn't do that. Finally, they worked out a deal where, okay, I wouldn't sign the form; they would give the weapon back, but I would do 50 hours community service, and six months probation. I would report to my probation officer every two weeks, and I would end up with a criminal record. I still have that arrest record, and I will always have it.

ASSEMBLYMAN STUHLTRAGER: Let me ask this: Have you attempted to get a purchaser's I.D. card since this event?

MR. WYGAND: Sir, I have a purchaser's I.D. card in my pocket. I have had it for 20 years. I was never asked for a purchaser's I.D. card when I was stopped.

ASSEMBLYMAN STUHLTRAGER: No, I didn't mean that.

MR. WYGAND: No, I have one. I have had one since 1966.



ASSEMBLYMAN STUHLTRAGER: Am I wrong, wouldn't you have to obtain another one-- If you wanted to purchase a handgun, wouldn't you have to obtain another one? Is that correct?

MR. WYGAND: To purchase a handgun, I would have to get a permit each time.

ASSEMBLYMAN STUHLTRAGER: That's what I thought. I am just curious. We have had some conflicting testimony as to whether or not this PTI situation would prohibit you from getting a card in the future. Have you encountered that?

MR. WYGAND: Well, I was told that unless I relinquished the weapon, I would not be eligible for PTI, which was wrong. But that is what I was told; that in order to be eligible to participate in the PTI Program, I had to relinquish the weapon to the State of New Jersey.

ASSEMBLYMAN STUHLTRAGER: All right. I take it you have not applied for a handgun purchaser's I.D. card since this event.

MR. WYGAND: You are confusing me with a handgun purchaser's I.D. card. The handgun was mine; it belonged to me. It was already purchased.

ASSEMBLYMAN STUHLTRAGER: No. I am just asking a prospective question.

MR. WYGAND: The FID I have already -- the Firearms Identification Card.

ASSEMBLYMAN STUHLTRAGER: Okay, here is my question.

MR. WYGAND: Okay.

ASSEMBLYMAN STUHLTRAGER: Everything that has happened to you-- You did PTI, you have your arrest record, and so forth. Let's say that tomorrow you wanted to get a handgun. You would have to get another card. Is that correct?

MR. WYGAND: I would have to go out and get a permit to purchase the handgun, yes.

ASSEMBLYMAN STUHLTRAGER: Okay. My question is: Do you know whether or not you could do that, having gone through PTI, or would they deny you that?

MR. WYGAND: I am not sure--

ASSEMBLYMAN STUHLTRAGER: Okay. So, you haven't had that happen yet.

MR. WYGAND: --whether it says conviction or arrest.

ASSEMBLYMAN STUHLTRAGER: Okay. Is there anything else you would like to add, Mr. Wygand?

MR. WYGAND: The only thing I would like to add is, 2C:39-5, which is unlawful possession of a weapon, should not be underneath 2C:39-4. If a person commits a crime with a weapon, that's 2C:39-4. If he, in fact, commits a crime with a weapon, put him away. They are lumping the citizens in with the criminals. That is about all I can tell you.

ASSEMBLYMAN STUHLTRAGER: All right. I want to thank you for coming up. Are there any questions from the Committee? (no response) Mr. Wygand, thank you for joining us this morning.

MR. WYGAND: You're welcome.

ASSEMBLYMAN STUHLTRAGER: I am going to try to take one more witness before lunch.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Could you take Mr. Hornung, please?

ASSEMBLYMAN STUHLTRAGER: What's that?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Could you take Mr. Hornung?

ASSEMBLYMAN STUHLTRAGER: I was going to say, I will take William Hornung, if he thinks he can be finished in 10 minutes. I don't want to put any pressure on him, but--

ASSEMBLYMAN BOCCHINI: Mr. Chairman?

ASSEMBLYMAN STUHLTRAGER: Yes, Assemblyman Bocchini?

ASSEMBLYMAN BOCCHINI: Thank you, Mr. Chairman. Thank you for allowing me to sit with the Committee this morning, since I am not a member of it. However--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Can't hear you.

ASSEMBLYMAN STUHLTRAGER: Better get closer to the mike, Joe.

ASSEMBLYMAN BOCCHINI: I'll try. It's very seldom people can't hear me. Is that a little better? (affirmative response) Let's try it from the top.

Mr. Chairman, thank you for allowing me to sit on this Subcommittee, not being a member of the Subcommittee. However, I am a member of the Assembly Law and Public Safety Committee. In addition, my primary reason for being here is not just as an Assemblyman from the Fourteenth District, but more particularly because I am a sportsman member of many of the allied organizations of the New Jersey Coalition of Sportsmen. I belong to a couple of hunting clubs, and I have found in my experience over the years, many of the frustrations that have been referred to by some of the witnesses today, and prior to today.

I can appreciate Colonel Pagano's concerns. However, what he marched out and put in front of this Subcommittee today, I think, in part, does a disservice to the guy and gal who, on Saturday morning, like to take their bird dogs and go out and do some pheasant hunting or duck hunting; or if I am going to take my muzzle loader on a Saturday and go out and do some deer hunting. They are the people I am most particularly concerned about.

I can give you an example of a situation in my family, where I had a great uncle who died, and his shotgun went to his son. He has now given that shotgun to his son. I don't know if that particular cousin of mine has a Firearms Identification Card. That is something that has been in the family for years, and may very well not be worth very much, but I do know my cousin has a legitimate hunting license.

When this series of hearings is completed, I really think you need to look at 2C, in conjunction with simplifying

it, so everybody knows and understands what they have to do. There are too many people who are caught in the glitches innocently. I know one of the problems that some people have-- Assemblyman Haytaian has put a piece of legislation in concerning the rifles and handguns purchaser's permit. It just doesn't make sense to me that every time you want to purchase a handgun, you need to obtain a new permit. If I understand the law correctly, my Firearms I.D. that I use to purchase a shotgun, is good for as long as I want to keep purchasing shotguns.

Now, if you are going to do a crime, or you are worried about the misuse of a weapon, you know, I don't know what the difference is. A shotgun can do as much damage, in many instances, as a pistol can, and sometimes even more so. It would make sense to me to consider-- I can understand, to a certain extent, the need for the background checks. I have no problem with that. But when we are talking about time, and the spending of time with background checks, and so forth, I really think that the Committee should suggest the implementation of the Haytaian bill, with the possibility of an amendment, which would require that it be renewed every three, four, or five years. I don't think I would have a problem with that. I don't know how the organizations feel about it, but I think you need to take some step in that direction.

As I read the Attorney General -- or the Deputy Attorney General's statement who appeared before the Committee this morning, I looked at some of the-- On page 13, when I looked at some of the comments concerning 2C:39-6, I was sort of chuckling to myself. It talks about members of rifle or pistol clubs being able to transport their shotguns or rifles for target practice. What happens in the instance -- this is a question for the Committee to consider-- As much as I deer hunt every year, I use the same buckshot every year. It never fails. Every year when deer season comes around, I go out and



I pattern the gun. You know, it shouldn't really change, but it is something I do.

Now, technically, if I don't have my Firearms Identification Card on me, and I don't have my license on me-- Actually, even if I have my license on me and I am just going out to test -- to pattern the gun, the license isn't sufficient. I think you need to take a look at that, because some of us who belong to hunting clubs-- What's a range? We go out in the back of our lodge down in the Pines and set up cardboard targets. Effectively, we are not a registered rifle or pistol club. You know, we are 40 guys from the Italian-American Sportsmen Club in Trenton, who are going away for a week of deer hunting.

ASSEMBLYMAN STUHLTRAGER: That sounds suspicious to me already. (laughter)

ASSEMBLYMAN BOCCHINI: You better be careful. I am going to let that slide. Too many people are quick to make jokes about that. I don't think it's funny. I am very proud of my Italian-American heritage. I know it wasn't meant to be derogatory, but some people have a tendency, every now and then, to-- Maybe because it is getting closer to Columbus Day I feel that way. But, notwithstanding that, it doesn't matter which type of hunting club it is, Mr. Chairman. I think you have to take some of these things into consideration. I know the Mercer County Federation of Sportsmen, and many of the hunting organizations from within Mercer County, over the years, have spoken to me about that. I think there is a lack of sensitivity at times among some of the members in our house, who seem to think that the only people in the world who own guns are the bad guys. There are far more good guys out there who own guns, who use them for recreational purposes, and who would like to continue to use them for recreational purposes.

Thank you.



ASSEMBLYMAN STUHLTRAGER: Thank you, Mr. Bocchini.  
(applause) I appreciate your joining us here today, and your  
comments. Mr. Hornung, welcome.

W I L L I A M H O R N U N G: Thank you.

ASSEMBLYMAN STUHLTRAGER: What do you have to say to  
us?

MR. HORNUNG: My name is William Hornung.

ASSEMBLYMAN STUHLTRAGER: Would you please spell that  
for the reporter? How do you spell your last name?

MR. HORNUNG: H-O-R-N-U-N-G.

ASSEMBLYMAN STUHLTRAGER: Wait one second, while she  
loads her machine up here. Go ahead.

MR. HORNUNG: I am from Asbury Park -- 400 Third  
Avenue.

ASSEMBLYMAN STUHLTRAGER: Okay.

MR. HORNUNG: I have been there for about two years.  
On February 28, I was sleeping; it was 3:30 in the morning. My  
phone rang. I answered the phone, and it was a friend of mine  
-- a woman I had known for a couple of years. She told me that  
she was being put out of the place where she lived, because she  
was always causing a disturbance there. I said, "Why do you  
call me up at 3:30 in the morning and tell me something like  
this? I know about it; I heard about it." Anyway, I hung the  
phone up. Then, about a half an hour later, I heard a loud  
commotion out in front of the house, and I got up to look out  
and see what it was. There were four police cars out there.

I stayed up. The police were trying to get in the  
front door. You can't get in there unless someone goes down  
and opens the door; you know, it is not a buzzer. I waited,  
and the first thing you know they got in. They got the  
superintendent to open the front door. They came up. They  
asked the superintendent if he knew me, and he told them that I  
lived there. They knocked on my door. I opened the door, and  
I said, "What's the trouble? What's wrong?" They asked me

what my name was, and I told them. They said, "Do you own any handguns or anything?" I said, "Yeah, I own guns."

They said that someone called them up and told them that I was going to hurt myself, and they wanted to take my guns. I said, "Well, I never said anything like that to anybody." I told them about the woman who called me up about getting put out of her house. They said it was the same woman. So anyway, they came in. They looked around and they saw my guns there. They said, "Well, we are going to have to take your guns." I said, "Well, why? What for?" They said, "You said you were going to hurt yourself." I said, "I never said anything like that. All I said was, she told me she was going to get put out of her place. That was all, I hung up the phone then."

Anyway, they came in. They started looking at my guns, and they said, "Well, we are going to have to take them." I said, "Well, what can I do?" They started picking up all of the guns, and they took them out. There were four police officers there -- one lady and three men. They picked up the guns, and they picked up everything else I had laying there -- the watches, the stuff I use for airplanes, tools -- all kinds of tools, everything.

ASSEMBLYMAN STUHLTRAGER: What did they take those things for?

MR. HORNUNG: What's that?

ASSEMBLYMAN STUHLTRAGER: Why did they take those things?

MR. HORNUNG: They just took everything.

ASSEMBLYMAN STUHLTRAGER: Did you get them back?

MR. HORNUNG: No, I didn't get anything back.

ASSEMBLYMAN STUHLTRAGER: Well, okay.

MR. HORNUNG: They took everything. I asked them, "When can I get this stuff back?" They said, "Well, come back Monday to the police station, and you will probably get them

back." I went back there Monday, and they told me that they had given the guns and everything to the prosecutor's office. I said, "Why did you do that?" and they said, "We don't want to handle it any more."

Anyway, I went back again, and I asked them for the guns again, and they wouldn't give them to me.

ASSEMBLYMAN STUHLTRAGER: Did you ultimately get your guns back, or not?

MR. HORNUNG: Did I what?

ASSEMBLYMAN STUHLTRAGER: Did you get your guns back?

MR. HORNUNG: No, I never got nothing back.

ASSEMBLYMAN STUHLTRAGER: Did you try, through any legal process, to get them back?

MR. HORNUNG: Yes, I went and got a lawyer.

ASSEMBLYMAN STUHLTRAGER: He was unsuccessful?

MR. HORNUNG: He sent a letter to the chief of police, and he never got no answer. He sent a letter to the prosecutor, and he never got no answer. So, I called up the prosecutor myself, and I asked him about my guns. He wouldn't even listen to me. He just hung the phone right up. He said, "I am not going to discuss it with you."

ASSEMBLYMAN STUHLTRAGER: Did he take it any further? Did he go to court?

MR. HORNUNG: Court?

ASSEMBLYMAN STUHLTRAGER: Yes.

MR. HORNUNG: No.

ASSEMBLYMAN STUHLTRAGER: No.

MR. HORNUNG: I went back to the police station two or three times after that to try to get the guns, but he always kept giving me the run-around. He said, "They are not going to give you the guns back."

R O G E R I V E R S O N (sitting near witness): Can you afford to hire a lawyer?

MR. HORNUNG: No.

MR. IVERSON: Tell that to the Chairman.

MR. HORNUNG: See, I had a lawyer. A friend of mine sent me to this lawyer, but after he found out that I didn't have any money, he wouldn't take the case. He did handle some of it, but then when it came to--

ASSEMBLYMAN STUHLTRAGER: But he wouldn't take it through the entire process?

MR. HORNUNG: No, he wouldn't take it through the whole thing.

ASSEMBLYMAN STUHLTRAGER: I'm glad you came and told us what happened to you. Do you have anything to add?

MR. IVERSON: You want your guns back.

MR. HORNUNG: Yeah, I want my guns back.

ASSEMBLYMAN STUHLTRAGER: I don't have them. (laughter) That is why we are hearing this kind of testimony, okay?

MR. HORNUNG: They had no reason to take the guns from me, except for what this woman said, and she was a drug addict and an alcoholic. I said, "How come you take the word of a woman like that?" The thing is, I hadn't seen her in three years.

ASSEMBLYMAN STUHLTRAGER: I appreciate your making this Committee aware and making your story a part of the record. Thank you for coming. We were glad to have you.

Do you have something to add, Mr. Iverson? You seem like you're champing at the bit there.

MR. IVERSON: If I may, Mr. Chairman. Right now, Mr. Hornung just came out of the hospital. He had been in the hospital for a couple of weeks. He had a very serious operation. That is why he is in a wheelchair right now. He had major surgery on both legs. It is not typical -- his status -- that he is sitting here in a wheelchair. This is not typical for Mr. Hornung.

Mr. Hornung has been a shooter for many years. He served in the military during World War II. Back there against that wall, is a stack of medals that he has won as a shooter, both from the military and as a target shooter and sportsman. He is a member of the National Rifle Association, and a member of many clubs throughout the State.

ASSEMBLYMAN STUHLTRAGER: That is very impressive. I thought Colonel Pagano left them, actually. (laughter)

MR. IVERSON: Mr. Hornung had a firearms I.D. card; had permits to purchase the firearms he had. The firearms he had were important to him. Mr. Hornung is 77 years old. These firearms, some of them, came from his grandfather. These firearms have been taken from him. Mr. Hornung wants his property back. There was no reason to take the property. Law enforcement came to his house as a result of an anonymous phone call. The police report clearly indicates that someone by the name of Barbara-- That was all that was necessary for the police to invade his house at four o'clock in the morning.

I can understand that maybe law enforcement felt they were justified; that they were there to preserve a life. But the way that they processed this whole thing-- There were no receipts. There was nothing else done. If they were really clearly concerned about Mr. Hornung as the anonymous phone call came through, that he was contemplating harming himself -- and Mr. Hornung has related to me that he is 77 years old and looking forward to the year 2000-- If law enforcement had really been concerned about the fact that Mr. Hornung might hurt himself, as the police report seems to indicate, then I would have to question law enforcement why the gas wasn't shut off to the stove, why the keys weren't removed from Mr. Hornung, why he was not taken for medical assistance, or anything else of that nature?

Mr. Hornung showed his Firearms I.D. Card, showed his permits, and everything else, to say, "Gee, guys, there is no



reason for you to do this. I am a law-abiding citizen. Just two years ago, you guys were the ones who handed me the permit to purchase a pistol. I filled out all the applications. You've got all my background." The officers took the permits and took the firearms I.D. card.

Now, as I understand the law, only the court may remove a firearms I.D. card, but it can certainly be done by the application of any citizen. Any citizen can make a request for the removal of a firearms I.D. card. I don't understand how law enforcement, at three or four o'clock in the morning when this thing occurred, can invade someone's house, take his property, take his identification and his personal possessions, and say good-bye, with no receipts, no charges, no court orders, no warrants, no nothing. I think that is appalling, especially combined with the fact that when I tried to find out what the problem was with this, and I called the police station and asked the name of the chief, they told me that that was private information. I couldn't have the name of the chief. (laughter) I said, "Well, then, can you give me the address of the Police Department, so I will be able to respond to you, sir?" He said, "No, that is not public information."

So, we have a Police Department where the chief is anonymous, and the Police Department's location is not public information. (laughter) Yet, they are out there concerned enough about this man's welfare to take his property and his identification. I think it is appalling. I think we need to do something in particular for this individual. He served his country. He served this nation, and in his ending years here, he does not need to go through this type of disgrace or embarrassment. He has been turned down by his attorney. His attorney called me to tell me, "I can't handle Mr. Hornung. I can't do anything for Mr. Hornung." I said, "Well, why?" He said, "Because Mr. Hornung has no money." That is a terrible price to pay for freedom -- that you can't afford the price of freedom. That is an outrage.

Thank you.

ASSEMBLYMAN STUHLTRAGER: Mr. Iverson, thank you. Mr. Hornung, thank you for joining us today. (applause)

Ladies and gentlemen, we are going to take a 45-minute break. We will resume testimony at 1:15. Thank you.

ASSEMBLYMAN KAMIN: Mr. Chairman?

ASSEMBLYMAN STUHLTRAGER: Just one second. Assemblyman Kamin, who has been kind enough to join us on our Committee.

ASSEMBLYMAN KAMIN: Mr. Chairman, I am delighted to serve with the Committee this morning. I usually serve on the Appropriations Committee, which more often deals with the confiscation of money -- your tax dollars -- than the confiscation of weapons.

I am not an attorney, and perhaps look at this whole situation from an entirely different perspective. But, rightly or wrongly, the perception is that the gun laws are being arbitrarily enforced. When you hear a story where an anonymous phone call can trigger a sequence of events like that-- That is not the first story I have heard. I come from North Jersey, a large hunting and sportsmen area, with a lot of gun owners. It is just appalling to have this arbitrary situation develop throughout the State, and at the local level.

I just want to make one final comment, I guess, and that is on some testimony where the statement by the American Civil Liberties Union was read. I find myself in rare agreement with the ACLU. But for us, as legislators, to tidy up the operation, I think, is paramount. I hope that the Committee's report can recommend some favorable legislation to make this all understandable to the layman, who shouldn't have to go through this kind of -- where attorneys have to be brought into your life in order for you to exist as a sportsman. It is not necessary, and it shouldn't be.

Thank you.

ASSEMBLYMAN STUHLTRAGER: Assemblyman Kamin, I think you make some very good points. Thank you for joining us. Now we are going to take a 45-minute break for lunch.

(RECESS)

AFTER RECESS:

ASSEMBLYMAN STUHLTRAGER: Good afternoon. I apologize for the delay. I have a list of people for this afternoon. Let me just say first -- and after me walking back late it is probably inappropriate, but I will say it anyway -- that this is the second hearing. There is not another hearing contemplated at this time. Perhaps some time in the future, when there is a concrete proposal to be discussed and we want to get public input on it, that may happen. I would ask, since we have, I am not sure how many speakers, that you just keep in mind that there are fellow speakers. Anyone who doesn't get a chance to testify-- We will go until 4:15, 4:30, whatever we have to do. If you don't get a chance to testify, written submissions are accepted and requested. I would encourage you to do that if, for some reason, you either choose not to testify or, for some reason, we do not get to you.

With that, I would like to call Chief Bill Osterman. Good afternoon, Chief.

C H I E F W I L L I A M E. O S T E R M A N, J R.: Good afternoon, Gary. For the record, my name is William Edward Osterman, Jr. I am the Chief of Police in the Borough of Elmer, Salem County, New Jersey.

I have heard a lot of testimony. There are a couple of things I would like to address as a police officer, as a police chief, and as a sportsman. As a sportsman, I would like to start by mentioning that I am a life member of the National Rifle Association. I am a competitive pistol shooter; I am a

hunter, and I am still a police officer. There seems to be a group of people who seem to want to separate that, and there is no separation. I owned firearms long before I ever thought of becoming a police officer.

I have been a police chief for approximately two and a half years. When I first became a police chief, I had a great deal of difficulty even getting the State Police to allow me the privilege granted to me under the State law to issue firearm permits and I.D. cards. The previous chief prior to my taking over did not feel it was necessary for him to do it, and he was quite happy to have the State Police take care of it.

In the period of time since I have become a chief, I found that the laws, to me, are very confusing. I have talked to seven other chiefs in my county -- there are seven of us -- and I get different opinions on every single item, every time I ask questions. I am always referred to the State Police if I have any problem whatsoever.

The first problem I have come across, is that I see absolutely no reason, in fact, for a separate permit system for handguns. As it stands right now, we issue a Firearms Purchaser's I.D. Card which allows you to buy rifles and shotguns in this State. That card is permanent until you make a mistake which would deny you that privilege. With a handgun-- Every time you go to buy a handgun, you have to apply to the Chief for a separate permit. One of the confusing features that comes up is that, depending on which chief you talk to in the State Police-- Some chiefs require that you fingerprint every single time. Others, you fingerprint once. Others, once a year. The law does not specifically spell out exactly how often that should be done.

My feeling is very simple: People don't change their fingerprints. If you have fingerprinted them once, it is not necessary to do it again. If, in fact, the Legislature feels it necessary, I certainly would agree that a card, similar to



the Firearms I.D. Card currently in use for handgun purchase, would simplify a lot of work. It would take less time for the police departments to process; less manpower; less aggravation. We have a fee schedule that we have to pay, which varies from department to department, including the fact that we have to send off fingerprints to the FBI for first-time applicants, and the fees are substantial. The State has no control over that. That is the FBI's fee schedule. But within the State itself, you can go over \$30 easily for a first-time applicant.

ASSEMBLYMAN STUHLTRAGER: Who bears that cost?

CHIEF OSTERMAN: At this point, I don't have the numbers in front of me myself.

ASSEMBLYMAN STUHLTRAGER: I mean, who bears the cost?

CHIEF OSTERMAN: Who bears the cost? The individual who is making application. It is an added expense that he doesn't really have to go through.

It has been my experience that, again, chiefs have their own interpretations of how long it should take. Even though the law says, "Within 30 days without cause," you are supposed to issue a card. While I was a patrolman in another town, I had a chief who knew I was a competitive pistol shooter, knew that I owned a number of firearms, and there were occasions where, because there was a -- I don't know, where he got up on the wrong side of the bed that morning -- it took me six weeks to get a pistol purchaser's permit -- six weeks -- and the man I was trying to buy the gun from is sitting here today. And I was a working police officer who was carrying a firearm daily, and there wasn't any reason to deny me the permit. It was just that he never got around to it. He got up on the wrong side of the bed or was busy.

ASSEMBLYMAN STUHLTRAGER: You had no recourse in that situation?



CHIEF OSTERMAN: Well, my recourse would have been to challenge him under law, and that wouldn't have worked very well since I was working for him. (laughter)

In addition to that, I have police officers working for me who do not live within my jurisdiction. Should they wish to purchase a firearm, specifically a handgun, they still have to go to the chief in the jurisdiction in which they live. If that particular individual has a problem with the chief -- a personality conflict -- it can take some time before someone finally gets around to giving him an I.D. card. That has happened.

ASSEMBLYMAN STUHLTRAGER: Chief, what would -- and I know you represent a small town-- I don't know what type of volume of applications you have, but what would be a reasonable amount of time within which just about any permit to purchase could be issued?

CHIEF OSTERMAN: Again, speaking as a small town -- as a small rural area officer, where I know most of the people, or I know of most of the people who come to me, provided they already have an I.D. card, provided they have already been through the initial background investigation, there is no reason at all why it should take more than a couple of days.

ASSEMBLYMAN STUHLTRAGER: Could you, or would you, be in favor of a separate time schedule, depending upon whether or not they are a first-time applicant as opposed to a second-time applicant?

CHIEF OSTERMAN: I do believe it is necessary to have a background investigation for first-time purchasers.

ASSEMBLYMAN STUHLTRAGER: And that is going to take more time, isn't it?

CHIEF OSTERMAN: And that takes some time -- 30 days, no more than 30 days certainly. Some departments have bigger work loads than others. Some departments have less manpower than others. But, in the long run, certainly no more than 30

days for a first-time purchaser. The biggest holdup I have encountered so far, is getting the turnaround FBI cards -- the fingerprint cards -- back from the FBI. Nothing happens until they come back.

ASSEMBLYMAN STUHLTRAGER: Okay. That is something that is really going to be beyond the control of any body, whether it be your department or this Committee. Go ahead, I'm sorry.

CHIEF OSTERMAN: There is another subject I heard Colonel Pagano address this morning. With no disrespect to him, he is rather proud of the fact that they have denied a great many permits to carry. There are very few people in the State of New Jersey who carry concealed weapons. Most of them are probably police officers, from my experience, because it is almost impossible to get a permit to carry, regardless of the circumstances.

I would like to point out that as a police officer, I spent 25 years, minimum, putting people away who had committed crimes. I am the person most visible to them for the arrest and incarceration. I carry this firearm with me everywhere I go, seven days a week -- day in and day out. I am required by State law to get involved in a felony, if I see one occur. I am certainly not going to do that unarmed.

After 25 years as a police officer, I am disarmed as the current laws stand. After being required to carry a firearm for 25 years, when I retire, that privilege is gone. I would like to point out that the people I put away -- the people I arrested -- and that we prosecuted, aren't going away. They come back. They have long memories, and they make a point of that. I personally received a death threat recently. That is not going to go away. But after 25 years as a police officer, my gun is gone. Then I have no more right, one way or the other, to defend myself and my personal property, than most of the citizens in the State of New Jersey enjoy right now -- or do not enjoy right now.

I really believe that somewhere along the line, the Legislature should address the fact that retired police officers should be able to continue, under some kind of a system -- should keep the right to carry a concealed weapon.

As I said, about how long it takes for these cards to be processed-- It is very important. I mentioned it before, and I am going to mention it again. Each individual department doesn't really know how long it is supposed to take for a card to be issued. The fingerprint cards -- how many times these people were printed -- is entirely up to the chief. There really aren't any guidelines.

ASSEMBLYMAN STUHLTRAGER: Chief, let me ask you a question that I probably should have better addressed, but my lunchtime discussion led me to think of it: Does the State Police -- Colonel Pagano-- Do they have any direct line authority or policy-making authority with respect to the local police chiefs such as yourself?

CHIEF OSTERMAN: Not directly, because we do pretty much run our own departments, which is why there is such a wide gulf in how things are done. Whenever a question comes up as to what you are supposed to do with a problem -- Should I issue a permit? Should I issue an I.D. card? -- the problem always goes back to, "Call the State Police Firearms Unit." The Master Sergeant who was sitting behind Colonel Pagano to his left, is the man who runs that unit. If he is not in, the call does not get returned.

ASSEMBLYMAN STUHLTRAGER: For instance, in trying to think about possible directions down the road, if a policy was issued by the State Police, would that policy be enforceable against local departments? For instance, if we said, "Thirty days is the outside limit on a first-time card applicant," and "Fourteen days on subsequent applications," could Colonel Pagano issue that policy, and would it be effective against you as a Police Chief in Elmer?

CHIEF OSTERMAN: The Attorney General would make that determination.

ASSEMBLYMAN STUHLTRAGER: But he would have direct authority to issue that type of a policy?

CHIEF OSTERMAN: The Attorney General would, yes.

ASSEMBLYMAN STUHLTRAGER: Okay.

CHIEF OSTERMAN: The State Police Superintendent, Colonel Pagano, would not affect us directly that way.

ASSEMBLYMAN STUHLTRAGER: Okay.

CHIEF OSTERMAN: He would affect the barracks and the stations that do issue cards.

ASSEMBLYMAN STUHLTRAGER: Right, I understand that. But you are answerable then to someone more than just your Borough Council?

CHIEF OSTERMAN: Yes, the Attorney General's office, through the prosecutor's office. The prosecutor's office would be the one who would get a directive in the county, and that directive would then come to us.

ASSEMBLYMAN STUHLTRAGER: I was just trying to clear up in my mind the lines of authority here. Chief, do you have anything else?

CHIEF OSTERMAN: That's all, sir.

ASSEMBLYMAN STUHLTRAGER: Thank you for coming up to join us today. We appreciate your dual perspective of sportsman and police officer. I think it is clear from your testimony that it is definitely not something that necessarily has to be in conflict.

CHIEF OSTERMAN: I don't believe there is any conflict whatsoever.

ASSEMBLYMAN STUHLTRAGER: Thank you.

MR. IRWIN: Mr. Chairman, if I may just add kind of a tag to the testimony. The Chief spoke of the expense, etc. of issuing these cards. You will want to verify these figures, but it is my understanding that the processing by the State



Police runs somewhere between \$4.5 million and \$5 million a year, to which can be added the cost of processing at all of the local police departments. Some of the suggestions the Chief has made would substantially reduce the cost.

The other comment I would like to make for the record is, with respect to the permits to carry the Chief alluded to, the law in New Jersey at the moment is that the only persons who are eligible to receive a permit to carry, are those who are involved in security work, where the carrying permit is a condition of their employment. Now, the Legislature did not write that law. The Legislature wrote that there should be a showing of need with respect to a permit to carry. The Supreme Court of this State has interpreted need to mean a security guard with a condition of his employment being to carry. That is why someone like Chief Osterman, when he retires, will not be able to obtain a permit to carry.

ASSEMBLYMAN STUHLTRAGER: Thank you, Mr. Irwin. Next I would like to call Lieutenant Joseph Walsh. Good afternoon.

L I E U T E N A N T J O S E P H W A L S H: Good afternoon, sir. Thank you for inviting me up here.

It looks like a lot (referring to papers he is carrying), but I assure you it is not. I speak fast.

ASSEMBLYMAN STUHLTRAGER: Go ahead.

LIEUTENANT WALSH: My name is Joe Walsh. I am a Lieutenant with the Morris County Sheriff's Office, in New Jersey here. I have been a firearms instructor and a police officer for over 20 years. I am also with the New Jersey Police Training Commission's Firearms Advisory Committee. I am also a member of the State BPA. I do not speak for them, and they do not speak for me. All these views are my own. My observations are my own, with reference to this.

I would just like to take a minute to point out a few things that I heard this morning which I think might be a little bit confusing. First of all--



ASSEMBLYMAN STUHLTRAGER: Make sure you speak into the microphone, so everyone can hear you.

LIEUTENANT WALSH: First of all, what I heard this morning pertained to nothing I heard last week -- I was here last week -- and it just doesn't seem to make sense. One remark was made by Colonel Pagano -- no disrespect to him, also -- that 37,000 individuals in New Jersey can carry firearms -- handguns. I am thinking he included in that probably the 33,000 or 34,000 police officers, because I know for a fact that in my county, there are only 100, at best, permits issued to carry a handgun.

Another thing, if I had known he was going to bring those illegal weapons, I would have brought mine also. I happen to have a bow and arrow, a peashooter, a slingshot, and a water pistol. They are all covered quite easily under the Firearms Act as it stands right now.

With reference to the Union County Prosecutor -- Rockoff is his name? -- I don't remember his name--

ASSEMBLYMAN STUHLTRAGER: That's right.

UNIDENTIFIED SPEAKER FROM AUDIENCE: He's from Middlesex County.

LIEUTENANT WALSH: Oh, Middlesex County. I was wondering if they confiscate cars and car keys from individuals involved in domestic violence also, under the same premise that if an individual is drunk, he should not be allowed to drive, which by far takes more lives and causes more injuries than firearms.

Also, with reference to the domestic violence statute, as I know it -- my office enforces that -- the individual who causes the problem is removed from the premises. Therefore, there should be no need to remove the firearm. Indeed, the individuals at the premises should have the firearm to defend themselves against the individual who has been removed from the premises.

ASSEMBLYMAN STUHLTRAGER: I wish I had thought of that point. (laughter)

LIEUTENANT WALSH: That's why you have a bunch of us up here.

ASSEMBLYMAN STUHLTRAGER: That's why you're all here, okay.

LIEUTENANT WALSH: Another thing that came up also in the State statute-- There is a provision in there that provides for out-of-staters to apply for an identification card.

There are a couple of things I would like to point out with reference to the State laws. For instance, the State Police clear your fingerprints for your fingerprint checks, and you get your character checks, and so on and so forth, from the State Police, the local police, and the county. You also supply a set of fingerprints to the FBI. Now, the FBI seems to be at least four to five, maybe six months behind in their clearance. What is to prevent an individual from getting into trouble in another state, being fingerprinted there, and by the time he gets back to New Jersey two or three weeks later, his fingerprints have cleared for the handgun or the I.D. purchase card? There are other problems a person can run into in other states in which you are fingerprinted, where you wouldn't be in New Jersey. So, the Federal is a big thorn in the side of holding up a lot of these permits.

On the mental check-- That was one of the new things brought into this law when 2A was rewritten to 2C. You allow investigations into your mental background, but that takes place only in the county in which you are making the application. For instance, if you are from Salem County, it does not mean that you have not spent time in a mental hospital in Morris. They don't know that. They only know the county adjuster has files at the courthouse in reference to you if you have lived in that county. They do not say how long, or whatever. Therefore, there is another hole.

On the fingerprints, the new 2C code says: "If you have previously obtained a handgun purchaser's permit from the same licensing authority for which you were previously fingerprinted, and you can provide other reasonable, satisfactory proof to your identity, you need not be fingerprinted again." That is provided in the State statute, also.

According to State law, also in the statute: "No other provisions shall be made in reference to this Firearms Act, otherwise than what is provided in it." In other words, a chief cannot tell an individual that he has to be qualified with a gun before he will issue the permit. He has no right to do that, according to this. It states so right in here -- no other conditions to be set forth other than what is in this form.

Property rights -- an individual's property-- "If any such weapons are found to be the legal property of an innocent owner prior to disposition, they should be returned to him if no longer needed for evidence or purposes" -- without going through a lengthy paragraph. That means that if you are accused, indicted, go to a court trial and are found innocent, you are then innocent and, therefore, the property you had that was confiscated with reference to client possession, should also be returned to you without any further problems from any courts or law enforcement.

Basically, I just wanted to point out a few things. I could go on and on and on, but I know there are other people waiting.

ASSEMBLYMAN STUHLTRAGER: Lieutenant, thank you for coming to testify. You made some new points, and reiterated many of the things we have heard. I thank you for coming.

LIEUTENANT WALSH: Thanks for having me -- any time.

ASSEMBLYMAN STUHLTRAGER: Mr. Kamin, do you have any questions?

ASSEMBLYMAN KAMIN: No, I don't, thank you.

ASSEMBLYMAN STUHLTRAGER: All right. Thank you, Lieutenant Walsh.

LIEUTENANT WALSH: You're welcome.

ASSEMBLYMAN STUHLTRAGER: Next, Mr. and Mrs. Gorman.

KATHY GORMAN: Hi. My name is Kathy Gorman. I am a professional, I work for A.T.&T.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Can't hear you.

ASSEMBLYMAN STUHLTRAGER: One of you is going to have to talk at a time, and please move the mike closest to the one who is talking.

MS. GORMAN: Okay. We are here because we were denied a purchaser's I.D. It took us nine months to get a purchaser's I.D.

The statements that were made by Colonel Pagano this morning that said a law-abiding citizen-- He was talking about criminals, criminals, criminals. Well, the fact of the matter is, as lawful, law-abiding citizens, my husband and I were denied permits.

Another thing that was said this morning--

ASSEMBLYMAN STUHLTRAGER: Let me ask you a question on that, okay? Were you provided written denial?

MS. GORMAN: Absolutely not. It took us six months to personally talk to the Chief of Police, and we had to go there to visit him. In other words, no phone calls were ever returned.

ASSEMBLYMAN STUHLTRAGER: Okay. Did you ever receive a written denial?

MS. GORMAN: Never, ever did receive a written denial. We finally had to petition the court ourselves.

ASSEMBLYMAN STUHLTRAGER: Did you go to court?

MS. GORMAN: Yes, we did. The judge ruled: "While the statute requires a FBI fingerprint check, it seems unfair to deny an otherwise qualified applicant an I.D. card because



the FBI is so busy. I am satisfied there that this requirement can be waived, where the applicants have certified in their application that they have never been convicted of a crime."

My husband, who is quite humorous, works for the Hercules Powder Company, and part of his job is wheeling nitroglycerin. He had worked for Hercules for eight years when we petitioned. He was also shooting for the Hercules trap team in an organized league. We started in September, when he went into the league, because he had a field gun. We both hunt. We tried from September, which was the fall league, through the entire spring league until May, before we finally got I.D. cards.

ASSEMBLYMAN STUHLTRAGER: And you were forced to resort to court?

MS. GORMAN: Yes, we had to go to court ourselves.

ASSEMBLYMAN STUHLTRAGER: Mr. Gorman, do you have anything you would like to add?

M R. G O R M A N (no first name available to transcriber): Yes, I would like to add a few things. With regard to it taking us nine months, I really wish the military in the '60s would have taken that long to issue me an M-16. They really had no problem giving me one right on the spot.

In any case, he made a statement to us that the only person that he would issue an I.D. card to, would be someone he knew personally. Now, I know of only two ways to really get to know a chief of police; that is, either get invited over for dinner, or be brought in front of him. We wrote him a letter requesting an invitation to dinner, but he never responded. (laughter)

I am also past President of the Algonquin Trap Club -- just a little bit of background on me. I finished fourth in the State in trap shooting. I have competed on the national level in the top 10% of the United States. I have some ballistics background, which brings up an interesting point

about that 20 millimeter anti-tank gun that was sitting up here. They haven't made ammunition for that in 40 years, so I really wouldn't be worried about someone purchasing that. You couldn't get ammunition for it, and a gun without ammunition is like a car without gas. So, I thought that to be a little bit ridiculous wheeling that thing out. It should be in a museum somewhere.

I have had people come to me in the club, who have said, "Well, I would like to join your club, but I can't get a Firearms I.D. Card, because in our town the chief of police told me, 'We don't issue them.'" This is typical of some of the abuses that are going on. I really feel that something should be done about this. There should be something that is uniform. Nine months for a person-- Neither one of us has ever done anything wrong in our lives -- always vote, the whole nine yards -- and it is a little ridiculous to have to petition the court. Fortunately, we had the resources to go to court -- to petition the court -- not like the 77-year-old gentleman. There is something drastically wrong, and you people need to do something about it, really.

Thank you.

ASSEMBLYMAN STUHLTRAGER: Thank you both for sharing your experience with us.

MS. GORMAN: I just want to say, listening to both of them say -- reiterating it over and over again -- that the people this statute covers are the criminals, and that the regular everyday people are not being hurt by this statute, is not the truth -- period.

MR. GORMAN: Thank you.

ASSEMBLYMAN STUHLTRAGER: Thank you. Bernard Riskin?

B E R N A R D R I S K I N: My name is Bernard Riskin. I live at R.D. #2, Lambertville, New Jersey.

My dispute with the laws of New Jersey, and the enforcement of these laws, is specifically with the provision

for health, safety, and welfare. I was denied in 1981, because of the health, safety, and welfare of the people of New Jersey. This denial was based upon an investigation by the State Police. This investigation was two phone calls. The State policeman asked one of my witnesses if there wasn't anything he could think of to be used against me. He said, "No, there isn't." He said, "Come on, maybe he smokes dope, right?" My witness said, "I don't know that; I don't know the man that well." This has now become, according to the State of New Jersey, a signed affidavit by him that he has personally seen me smoking dope. The State of New Jersey has me this crazy hophead, a habitual user of drugs. I don't even use aspirin that much.

Now, I want to contrast the investigative process in the State of New Jersey in applying for a gun permit with the Federal process. In the mid-'40s, when I was in the service, I was investigated by the FBI for my job in the Army, which was in the Staff Communications Branch of the War Department, where we handled all the classified traffic for War, State, and Navy all over the world. I passed, and was granted a top secret clearance after six months.

My next Federal investigation was when I was doing computer work for the Atomic Energy Commission in nuclear weapons design -- H-bombs. I passed that one, too. There were three or four more weapons clearances -- secret clearances -- granted to me and, as a matter of fact, the last clearance came subsequent to my second denial for a permit.

Now, what can we infer from these two sets of facts? Easy. The FBI has a lot to learn from the State Police. (laughter) I am upset because the police seem to ad-lib the laws like stand-up comedians. They do law like comedians do jokes. The history of this, is that my 1980 appeal was turned down for health, safety, and welfare. I went to court. The judge turned me down because of a bad attitude. I don't know

how he knew this. I didn't say anything, but I had a bad attitude.

Three years later, I applied again, but, naturally, the next set of cops, and the next set of judges, was not about to undo what the previous set did. They just passed the buck, and said, "Well, if they turned you down, we are going to turn you down, too." That was about the bottom line.

All this started eight years ago. I applied again a year ago and, in due course, was turned down after only nine months. So we appealed again, to go to court -- the same courtroom. This time, we didn't hear anything from the court for four months. Finally, the judge said, "I don't think you are entitled to a hearing after two turndowns." I must say, the chief we have now was not the type to pass the buck. He didn't need to depend on anybody else to turn me down; he turned me down on his own initiative, for his own reasons, such as if I drove too fast on my road, I might get in an accident. That is how I got turned down.

Now, there are guns, and there are civil rights. I am here for civil rights -- mine and everybody else's. I don't like to be told that I should sit in the back of the bus because it gets to the station the same time as the front of the bus gets there. This gun law, and the application and administration thereof by the police who do it, breeds disrespect for all the laws in New Jersey. I am here to do my bit as a citizen to straighten out some law, whatever it is.

I don't know who said this. I don't want to be like Biden and give a quotation without giving due credit. I think it was Edmund Blake who said, "The only thing necessary for the demise of liberty is for good men to stand idly by and do nothing, while it is getting trashed," or words to that effect. That is not what I am doing. I am not standing idly by while the law is getting trashed. I thank all of you for coming here and not standing idly by either.



That's it. Thank you. (applause)

ASSEMBLYMAN STUHLTRAGER: Thank you, Mr. Riskin.  
Russell Foster. Good afternoon, Mr. Foster.

R U S S E L L J. F O S T E R: Thank you. It's nice to be here. My name is Russell J. Foster. I live at 9-11 Lindenhill Apartments, Lindenwold, New Jersey.

I would like to talk about an incident that happened to me with the State Police involving a handgun. I was down in Woodstown -- Lower Bank, New Jersey. On my way home, about four o'clock in the afternoon, I was pulled over by the State Police for an overdue inspection sticker on my pickup truck. As the State Police pulled me over, he asked me if I knew why I was pulled over. I said, no, I had no idea. He said, "You are overdue on your inspection. May I have your credentials?" So, I handed him my driver's license, insurance card, and everything. He said to me, "Were you drinking?" I said, "No, sir, I don't drink." He said, "Do you mind getting out of the truck?" I said, "No, sir." I got out of the truck, and I went to the front of the truck. He said, "Do you know your ABCs?" I said, "Yes, sir." He said, "Would you repeat them to me?" I said, "Yes, sir." I recited the ABCs to him. He said to me, "Can you pick your left leg up?" I said, "Yes, sir." I picked my left leg up; I picked my right leg up. He said, "Do you mind stepping to the back of the truck?" I said, "No, sir." I went to the back of the truck.

Meanwhile, another officer came up behind us. The other officer proceeded to go to the cab of my truck. He came back and said, "What is the bow and arrow doing in your truck?" I said, "I was shooting my bow earlier this afternoon." I said, "If you look alongside the bow and arrow, you will see a bag that has two stripers in it. I was out striper fishing later this afternoon." I said, "Look underneath the front seat." I said, "I have a .357 Smith and Wesson Magnum under there. I was target shooting at the same time down at the club."

They reached underneath my seat. I had no box in my truck and I didn't want to conceal the weapon in the back of my pickup so someone could steal it, so I had it in a holster wrapped up in a rag, with the ammunition separated from it. He said to me, "Do you have a permit to carry?" I said, "No, sir, you can't get a permit to carry in the State of New Jersey, and I don't want one." So he said, "Do you have any credentials for that gun?" I said, "Yes, sir, anything you want." I had every legal document I was supposed to have -- the New Jersey I.D. card, the purchase sales slip, hunting license. He said to me, "Well, we are going to take you in and give you a breath test." I said, "Whatever you want, sir; let's go."

So, they went to get away from my truck, and I said, "Do you mind locking up my truck? I don't want anyone to steal anything out of it." I said, "I want my bow and I want my stripers in the trunk of your car, so nobody will steal them." They took my bow and brought my fish and put them in the car. We went down to the police station and they gave me the breath test. He said, "You are blowing normal." I said, "I told you that before we started, sir. I don't drink." So he said, "Well, we are going to file charges against you." I said, "For what?" He said, "I am going to charge you with possession of a .357 Magnum without a permit to carry." I said, "I don't need a permit to carry."

So, he handcuffed me and chained me to a pipe in his office. I sat there for eight hours. Finally, he let my wife come down and get me. He wouldn't take me back to my truck. So, my wife came down, and my friend came down to get me out. Meanwhile, I had to contact a lawyer. So I contacted a lawyer. He said, "Come to my office." I went to his office, and we discussed the case. The next thing I knew, he was calling me back in two days, wanting to know if I wanted to plea bargain. I said, "What are you talking about, plea bargain?" He said, "They have a thing out called a PTI." He

said, "If you are cleared for it and accepted, there will be no charges filed against you. They will drop all the charges, and you will be on probation for three to six months, and you will lose your gun." I said, "Whoa, wait a minute. I am not losing my gun. I want to make this clear. I didn't do a thing wrong with my gun. I had every legal document I needed for this gun." I said, "I am not giving it up. If the chief of police, or that sergeant want me to buy him one, I'll buy him one, but he is not getting my handgun. That's all there is to it."

I got a little bit upset about it. They scheduled me for a hearing down in Bass River. I went to Bass River, and the judge said to me, "I only want to talk to you about this case. You can pay the two traffic tickets the officer gave you for your vehicle, and that is as far as it is going to go. I am transferring this case to the Burlington County Prosecutor's Office." So, that was the end of that. I went back to the house. A couple of days later, the lawyer called me up, and he said, "You have a hearing with the Burlington County Prosecutor. I want you to go to the courthouse with me." I said, "Okay." I went to the courthouse on the date. I never even got to talk to the prosecutor; the lawyer did. I sat around for five hours, and then they sent me down to talk to a guy about this PTI. I told the guy, "I'm not even interested in it. I don't know why my lawyer has me down here."

I spent two or three days running around trying to get this thing straightened out. Meanwhile, I had to prove that I had my gun at the club. I had to get a notarized letter -- statements from club members that I was there shooting, to prove the point, which I did. I got everything all squared off. Meanwhile, a couple of months went by, and I got a phone call from my lawyer. "We went to court on the hearing today. They threw it out. Go get your handgun back."

Well, it isn't that easy, "Go get your handgun back." I called the Tuckerton State Police, where I was supposed to

go. They didn't know anything about my gun. "Well, who has the gun?" "The Burlington County Prosecutor's Office." I tried to call the prosecutor's office, and they don't even want to talk to you. Save your time. So I called the lawyer back up. He had to submit a letter. He submitted the letter. The next thing you know, they call the State Police barracks up. The State Police called me. "Come get your gun." "Where is it?" "They have it at ballistics." "Well, how am I going to get it?" "Just go over and tell them who you are." I went over to get my gun. They didn't want to talk to me. I needed a letter directly from the Burlington County Prosecutor's Office. You know, it got a little aggravating, and costly, at the time, you know. It cost me \$1350 for a \$285 gun, and they dropped the charges against me.

You know, I am not impressed at all with the system we are living under here, sir. Believe me when I tell you. I should not have had to go through that, when I had every legal document in the world that said I was right. If I wasn't supposed to have a handgun, the police would not have given me one. If I wasn't supposed to have an I.D. card, the FBI would not have given me one. That is how I feel about it.

ASSEMBLYMAN STUHLTRAGER: I appreciate your testimony. I don't have anything to add. Thank you.

MR. RISKIN: Okay. Thank you very much. I sure do appreciate it. (applause)

ASSEMBLYMAN STUHLTRAGER: Robert Biden. Good afternoon, Bob.

R O B E R T B I D E N: I am Robert Biden. I am with the New Jersey Sporting Goods Dealers Association. I would like to make a statement as to this problem we are having. There is a gun law in the State of New Jersey that was set down by the Legislature. However, it is interpreted 500 different ways by every chief of police in the State of New Jersey. A few years ago, as part of the Coalition, we sent out a questionnaire to



500 chiefs of police. We got 133 responses. Every one differed as to the amount of time it takes to issue an I.D. card, the amount of time it takes to issue a pistol permit. No two were exactly alike. Everyone has his own idea. If you go to a police chief today in any town, you are going to get a different opinion of what this law is, and how they react to the law.

From a dealer's point of view, we hear most of the abuses that are related to the purchasing of firearms, such as the I.D. card or the pistol permit. In our county, which is Gloucester County, we have people who wait one day for a permit. We have other people who wait for up to six months for permits. This is repeat permits. On Friday afternoon, I received a phone call from a gentleman who had purchased a firearm from me in May. He had gone through the complete process with fingerprints in May, and had acquired his handgun. He went back to acquire another permit to purchase, and he called me to inform me that he was being fingerprinted again. This is since May.

Today, with the cost of the fingerprints running about \$26, it can get very costly. If you have a police chief who requires fingerprints to be taken every time a pistol permit is required, it can be very costly for the individual trying to get that pistol permit.

We are also finding that, depending on where you live, it takes a different amount of time for your I.D. card -- when you apply for an I.D. card. We have chiefs who routinely will tell people to come in for an I.D. card, that, "It is going to take you three to six months to get this card." Now, as a dealer in the State of New Jersey, whether the State Police will admit it or not, there are people who circumvent the laws in this State by going to other states to purchase guns. All you need is a relative in another state to pick up the gun for you, and you have another gun. This is happening throughout

the State of New Jersey. There are probably as many guns bought out-of-state and brought into this State illegally as there are purchased in this State, by people who normally would abide by the law, if they could. But when you make a man, during hunting season-- When you tell him he is going to wait six months to get an I.D. card, he finds a way around it.

Speaking for the Dealers Association, we would like to see these laws straightened out. We would like to work with the State Police in any way possible to get the laws in this State straightened out, so that it could be understood by the sportsman, by the dealer, and by the police, so that we don't have a misunderstanding of the laws and how they should be enforced.

ASSEMBLYMAN STUHLTRAGER: Thank you. Do you have anything else you would like to add?

MR. BIDEN: That's all I have.

ASSEMBLYMAN STUHLTRAGER: Well, thanks for coming up today, Bob. Arnold Smith. Good afternoon, Mr. Smith.

A R N O L D S M I T H: Good afternoon. My name is Arnold Smith. I am a sporting goods dealer in Milltown, New Jersey. I had an incident happen back in 1984, that still hasn't been corrected, and I think it is overdue.

On February 20, 1984, Sergeant Glenn (phonetic spelling) from the State Police came into the store, and he said, "Do you know Sergeant Wamboldt (phonetic spelling)?" I said, "Yes, I do." He said, "Who is he?" I said, "He is a sergeant in the New Jersey State Police. He is a customer of ours." He said, "What else do you know about him?" I said, "What else do I know about him? He is a sergeant from the State Police." He said, "Could I see your records?" Now, he has entitlement to go through our books, through our records, and check them.

At this time, I gave him all of the records, and he spent six hours there that day, going back five years through

the records, and every firearm that Sergeant Wamboldt had his name on, he took note of it. I spent three hours that night going through records and checking up on the guns he wanted. On the twenty-first, he came back with another officer for six hours. The following day he came back for another hour. To make a long story short, within the next five weeks, they spent 23 hours in my store, collecting and going through records.

Every firearm that Sergeant Wamboldt had, they confiscated, either from my store or from the people I sold them to. If I were to tell you some of the things that happened to some of the people-- They went to the door and confiscated the guns out of the hands of children, and that. What was happening was, two sergeants from the New Jersey State Police had taken-- They were in charge of ballistics. They were in charge of taking these guns and melting them down and destroying them. Instead, they were taking them out and selling them, mostly to licensed firearm dealers.

In my case, we had 30 guns that they took record of; 14 of them is all I know they have picked up, and all that I had to pay for. But that total expense was \$5338.70. Another store had 32 guns -- \$3000.00. Another store had 48 guns on record, and they took 11 of them, or at least he paid for 11 of them. The 11 were the 11 that came back to tell him that they had confiscated -- had taken their guns that he had sold. In other words, they were blaming us for what one of their officers -- or two of their officers had done.

In our thinking, if we broke the law in the State of New Jersey, the dealership would be responsible for it. If one of our employees broke the law, we would be held responsible. But apparently the State Police has taken the attitude, "Well, that's tough. You're dealing with stolen guns." It was not that we stole them, but because one of their men took these guns and sold them to us. Sergeant Glenn said to me at one time, "Didn't you know better than to buy off of him?" Well,

who better could we buy guns off of than a sergeant in the State Police -- a sergeant who had an I.D. card -- every bit legal? True, they were found guilty. Well, one was found guilty, and one was put back on duty, I understand. (laughter) One served, I guess, weekends in jail. He is supposed to pay the dealers back out of his wages, or anyone they took the guns from.

Well, at this time, I have received \$1158 of the \$5338 I am due. At the rate they're paying from 1984, I figure I will be very close to 100 before I get this money back. I think that what is good for one, should be good for the other. I think that if we have to be responsible for our employees, I think they should be responsible for their employees. I think there should be a case of reimbursement, because we did it with good intent. We certainly did it with the best thoughts in mind. I think it was just very bad judgment that they did this very thing to us.

ASSEMBLYMAN STUHLTRAGER: Thank you. We heard some testimony on that incident last week, also, but I am glad you joined us today. Thank you. Richard Rea?

R I C H A R D R E A, E S Q.: Good afternoon, Mr. Chairman.

ASSEMBLYMAN STUHLTRAGER: Good afternoon.

MR. REA: Ladies and gentlemen, I will try to be quick. My name is Richard Rea. I live at 27 Starlight Road, in West Milford, New Jersey. I have lived in New Jersey all my life. I am a practicing attorney, a senior associate at a very large law firm in Manhattan. And I have had some problems with New Jersey firearms laws.

Since about 1976, I have had a Firearms I.D. Card. I own several handguns. After moving from Jersey City to Belleville, I went to the Belleville Police Department to have my Firearms I.D. Card address changed. When I filled out the appropriate forms -- the same forms I had filled out initially to obtain a Firearms I.D. Card, except for fingerprints -- I



gave the clerk in the Records Department the forms, and she asked to see my Firearms I.D. Card. When I gave it to her, she told me she was not going to be returning it. I asked what I would do without that card until the new one was issued, and she told me, "Well, I am just not giving this one back to you. You can't have this one now. You have to wait until the new one is issued." I didn't get a receipt; I didn't get a letter indicating I had previously had a Firearms I.D. Card; I didn't get any better suggestion on what to do.

Being an attorney, my livelihood is at stake if I am convicted, or even accused of a gun-related offense. If I was legally transporting that weapon in a car, or if there had been a fire in my apartment and the police and the fire department came, I would not have my Firearms I.D. Card to show them. I carry that Firearms I.D. Card as religiously as I carry my driver's license, and as I carried my draft card, when I had a draft card.

Well, several weeks later, I did get the new I.D. card, but during that interim I was at risk of being either detained or arrested or perhaps convicted under some interpretations, that because I was either possessing or transporting a shotgun or rifle, without the appropriate document, I was in violation of the New Jersey law.

I have had a few other incidents. On December 3, 1986, I went to the Belleville Police Department to obtain a permit to purchase a handgun. I already owned more than one handgun at the time. They told me they didn't have the appropriate form for me to fill out, so I couldn't apply for a permit to purchase that handgun until they got the forms from the State Police. I said, "Well, when are you going to get them?" They said, "Well, call once a week." I was pretty persistent, and I called once a week. It took over 21 days. I wasn't able to submit my application until December 26, 1986.

A few weeks later, I got my permit form. You have 90 days from the day the permit is issued to purchase your handgun, or the permit becomes invalid and you have to go back and reapply. The permit was dated the day I applied, not the day it was signed; not the day it was sent to me.

In May, 1987, I went back to the Belleville Police Department, and I said, "I would like to get a permit to purchase a handgun." They said, "Well, the State Police didn't send us the appropriate forms, so we don't have them." They did not give me another suggestion on what to do. So, I got in my car and drove about three miles to the Rutherford Police Station, and said to them, "Do you have the permits to purchase a handgun?" They said, "Sure, we have the forms right here." So, I picked up the form there, brought it back to Belleville, and submitted my application. But, if I hadn't taken the initiative, I would have been essentially precluded from submitting an application on that day, because the local police department either did not have the appropriate forms, or were telling me that they did not have the appropriate forms.

I would also like to make another point regarding the Firearms I.D. Card applications. I was about 21 when I initially applied. I had nothing that even resembled a record. I was so clean I squeaked. It took nine months for me to obtain that Firearms I.D. Card, and that is going back to about 1975 or 1976.

With respect to the question regarding the definition of "transfer," in early July, 1987, one of my best friends, who is a captain in the United States Air Force -- a career man -- and a missileer in charge of nuclear weapons in North Dakota, came to visit his family and his friends on his honeymoon. He was not able to rent or borrow a shotgun to shoot trap at the Ringwood Trap Club at Thunder Mountain, because he didn't have a New Jersey Firearms I.D. Card. He is required, and does carry a loaded firearm on his job everyday.

I think our law creates more questions than it gives answers. I don't know whether I am supposed to carry my I.D. card all the time or not, so I do. But there are other questions that are not as easy. When my wife drives our car, if she is alone, there can't be a firearm in that car because she doesn't have a license for it. I have a car where I can lock the trunk with a key that she doesn't have. When I transport a firearm, I keep it in a locked container inside the trunk, unloaded, and that container is hard-sided, so there is the inside container and the trunk, and she can't open the trunk if I lock it with my key. If she drives that car, at least my estimation would be that that would be a violation of the New Jersey State Firearms Law.

I recently went to Cherry Hill overnight. On the way back, I could have stopped at the range in Englishtown and shot. But I didn't take my firearms with me, because I don't know whether, according to our firearms law the way it is worded, if an overnight stop is all right. Is that a reasonable departure to a range? I don't know, and I am not going to take that chance. So that has a chilling effect.

Additionally, I stayed at a hotel. Should the gun be locked in the car overnight? I don't think it is a good idea to leave a gun in a car overnight in a parking lot. Am I permitted to bring it into the hotel, even if it is unloaded and in a locked container? Well, the way I read the law, I don't know that that is legal either, so I don't do it.

What about if you have a safe deposit box, and you want to bring your gun, unloaded, in a locked container, even dismantled, and put it in your safe deposite box? Are you allowed to do that? I don't know. The law is not clear.

Thank you for your time.

ASSEMBLYMAN STUHLTRAGER: Thank you. We appreciate your comments.

At this time, I would like to recognize Assembly Majority Leader Chuck Haytaian, who has joined us. Chuck, welcome. (applause)

ASSEMBLYMAN HAYTAIAN: Thank you.

ASSEMBLYMAN STUHLTRAGER: I'm glad you could make it. Would you like to say anything at this time? (no response) I know Chuck has legislation in that touches on aspects of what we have heard about, both last week and this week.

ASSEMBLYMAN HAYTAIAN: Well, I thank you. I did not expect to receive applause for coming to a Committee meeting, but thank you very much. I appreciate that. We don't always get applauded, as my colleagues know.

ASSEMBLYMAN STUHLTRAGER: Not usually.

ASSEMBLYMAN HAYTAIAN: I am glad these hearings are going on. Unfortunately, I could not make the last one, and I apologize for being late for this one. But I guess it seems appropriate that I am here in Trenton today, both to witness this hearing and be a part of it, and also to speak to 20 scholars from Russia. I think we will really talk to all of the audiences on the basic freedoms. So I think it is important that I indicate that. I think it is a basic freedom we have in this country to carry arms appropriately. I think it is important that it be mentioned that way.

The bill I have-- I know this is not a hearing on the bill I have proposed to the Legislature, but I think it is important that we talk about it a little bit. The bill was put in to streamline the process. I think it is important that we understand that. It was not put in to make it easier, or to make the criminal type, for instance, carry arms, but to streamline the process. I am sure you have heard testimony as to the problems associated with the process. I believe in a process that is streamlined, that costs less money. For instance, I believe my bill -- and we talk about my bill in Committee -- will prove out to be less costly than the present



system. I think it is important that we take all of these things into consideration, and yet protect the rights of the public and the rights, also, of those people who carry arms.

It is important that you are having these Committee hearings. I congratulate you and salute you, Assemblyman, because this is important to all of us in this State.

Thank you very much. (applause)

ASSEMBLYMAN STUHLTRAGER: Thank you for your comments. You should know that many, many of the witnesses who have testified here have addressed the very issue you just hit on -- the need to protect the public health, safety, and welfare and, at the same time, allow a system to exist that is streamlined and doesn't give people the run-around in a bureaucratic maze, and one that also is not as expensive as it sometimes can get.

I have Mike Grossman next. Mike, as you are coming up, let me just ask-- Come on up, Mike. As you are coming up, I have two people who are going to be testifying together, Paul Blackman and Richard Manning. Other than them, I have gone through the list as it was given to me. If there is anyone else in the room who wishes to testify, just make your way up to the Committee Aide here, and give us your name. Elsewise, we will go to Rich and Paul next, and then we will wrap things up. Okay, Mike, thanks for joining us.

M I C H A E L G R O S S M A N: Ladies, gentlemen, members of this honorable Committee: I am Michael Grossman. I am President of the State Federation of Sportsmen's Clubs. I am here representing over 60,000 sportsmen in the State of New Jersey. Obviously, in these surroundings, our entire membership could not be here today.

But, we would like to try to impart to this Committee that being one of the largest organizations representing sportsmen here, we tend to run the gambit. We represent not only hunters and shooters, but many of the others -- sports

fishermen, ice fishermen, trappers, and so on. Of course, many of our members are involved in the shooting sports. There are hunters; there are shooters; there are gun collectors.

I have heard quite a bit of testimony at these two hearings, as have all of you, and obviously, to me -- of course, I am slightly prejudiced; I have been representing sportsmen for many years, and probably will do so for many more -- there is some problem here in the State. I get many people coming to me in my position, and they have imparted many stories, which you will not have an opportunity to hear today. I commend the people who have spoken here today, because I know it is of great importance in their own minds to tell you their stories. Not only that, it is also a tremendous effort that these people took the time away from work, took the courage to come down here and speak before a Committee. This is not an easy thing for an individual to do, as I am sure you can appreciate.

There are many other individuals in the State who do not have the opportunity to take the time and, quite honestly, do not have the courage to speak their minds openly before a small crowd, let alone an Assembly Subcommittee.

We have heard quite a bit of testimony about abuses of the law. Many of the individuals involved in our organization have experienced similar delays. There have been many people -- and I will not submit hearsay testimony to this Committee -- but many of our organization people have stated to me plainly that they feel they may just give up hunting; they may just stick to their fishing rods. It is becoming a little bit too complicated in this State for them. They like to enjoy their sport. One of the reasons people enjoy some of the outdoor sports is that they like to get away from the rigors of the city life. They like to get away from some of the tight controls that are placed on them in their daily lives, their day-to-day jobs. And for relaxation, one of the things they

like to do is to get out in the country and just spend a day in the woods, not necessarily to bring in a bag limit, or anything else, but just to watch the leaves turn and to sit in the outdoors.

I would just like to ask, on behalf of all of these people, that this Committee truly look back, go over some of this testimony, consider legislation that is pending, and hopefully consider additional legislation that would help these private individuals to pursue the sports they would like to pursue. I know also, in fact, that New Jersey has a "New Jersey and You, Perfect Together" tourist campaign. If you speak to many people in our neighboring states of Pennsylvania and New York, you will find that many of those people are very reluctant to come to this State to pursue outdoor activities here. There are many shooting clubs that hold tournaments, and those out-of-state shooters who would like to come to this State to compete, are very reluctant to do so because of some of our laws.

Now, I certainly do not condone any illegal use of firearms, and I am sure that most of the individuals in this room are also of that feeling. We also feel that if there is an honest violation of a firearms law, that individual should be duly prosecuted. But we would like to call on you to possibly take some time to consider the possibility of setting up a commission, so that it is not up to the courts for the return of confiscated firearms, and also to listen to some of the testimony in the future, and the legislation submitted in the future, that will make this clearer and easier for both the law and the public citizens to understand what they feel on guns in the State of New Jersey, and feel confident that they are not criminals, that they are everyday citizens like you and me, and that they are free to pursue what I believe is the liberty of the right to own a firearm, as granted in the Constitution.

Thank you for your time.

ASSEMBLYMAN STUHLTRAGER: Thank you, Mike. I would like to call Paul Blackman, Ph.D., and Rich Manning, and I believe these gentlemen will wrap it up for us. They are going to testify together. Thanks for joining us.

I also want to thank Assemblyman Chuck Haytaian for stopping in today.

R I C H A R D M A N N I N G: Mr. Chairman, other members of the Committee: What we are going to do here to wrap this up is, Dr. Blackman will present some statistics and a look at some of the things you have heard about today regarding statistics, and then I will wrap up. So, I will turn it over to Dr. Paul Blackman.

ASSEMBLYMAN STUHLTRAGER: Dr. Blackman?

D R. P A U L B L A C K M A N: Thank you, Mr. Chairman. I am Paul Blackman, Research Coordinator, National Rifle Association Institute for Legislative Action in Washington, D.C.

It has regularly been asserted that New Jersey's restrictive gun law has worked since its adoption in 1966. Colonel Panago regularly cites two sets of statistics to bolster that allegation. First, he notes that since 1967, arms have been involved in a smaller percentage of violent crimes than in the nation as a whole, or in some specified state or states. And second, he cites the number of persons denied permits, suggesting that a denial is equivalent to keeping a criminal or other high-risk person from getting a firearm. Generally, Colonel Pagano cites something over 30,000 denials, of which about 10,000 involve alleged criminal records. There are several problems with both claims and with the data cited for their support.

Denying permits does not mean that criminals are kept from getting guns. The most suggested data on that involves crime data, as I will discuss soon. Regarding denials, however, no one denies that permit systems mean denying people



legal access to guns. The more denials Colonel Pagano lists, the more law-abiding citizens have been forced to yield their gun rights, or forced to obtain firearms in technical violation of the law. The vast majority of denials are not to persons even alleged to be criminals. Only about 30% are supposedly felons. Some 20% are admittedly denied on an arbitrary and capricious basis, the precise wording being, "Their possession of firearms would not be in the interest of public safety, health, or the welfare of the citizens of the State."

Criminals are not necessarily denied access. After all, the U.S. Department of Justice funded a survey of felons in 10 states -- unfortunately, not including New Jersey -- and found that very few felons had ever sought permits, and that there was no relationship between gun laws in the states studied and the felon use or carrying of firearms. Moreover, Duke University's anti-gun economist, Phil Cook, found the permit system to be ineffective, in part because records are so bad that the few criminals who bothered to apply would probably have a sporting chance of being approved. (laughter) Unfortunately, FBI, NCIC, and other Federal and State records are so incomplete and inaccurate, that law-abiding citizens stand a sporting chance of being improperly denied.

We have no way of knowing what percentage of Colonel Pagano's 10,000 alleged felons are not felons. We do know from recent congressional testimony by the head of Maryland's similar program, that only about 3% of those denied are really dangerous ex-cons, and that some 85% of those who appeal denials are approved on appeal. And we know that many people do not bother to appeal improper denials at all. After all, studies indicate that a large number of welfare recipients do not appeal improper denials of welfare, and that involves the right to obtain money, rather than the right to spend money, and there are fewer alternatives.

In addition, we know there are only about 75,000 lawfully owned handguns in New York City, but a conservative estimate would be 750,000 handguns, mostly owned by otherwise law-abiding citizens, forced to break the law by the permit system there. The experience of other states and counties suggests that if some 33,000 permits have been denied in this State, some 28,000 to 32,000 of those should have been approved.

How about crime? Again, Professor Phil Cook of Duke, has found no evidence that permit systems are criminologically effective, and are not cost-effective. Other scholars have found the same result, using multiple regression analyses. No gun law has any impact on violent crime or on gun crime. No combination of gun laws has any impact on crime or on gun crime. New Jersey statistics would verify that conclusion.

It is significant that Colonel Pagano's data begin in 1967. The question is whether the gun law is related to the use of guns in New Jersey crime. Guns are used in only about 38% of New Jersey homicides and 59% nationally, but the same thing was true in the years before the 1966 New Jersey gun law was passed. Firearms were still used in 38% of New Jersey homicides and about 59% nationally. Gun use in aggravated assaults may only be 13%, but it was only about 10% in the early '60s, and is also 13% in the rest of the Northeast, including restrictive, nonrestrictive, and in-between states.

The way to test the impact of the law is to compare New Jersey before and after the law -- compare it to other jurisdictions. A few such comparisons could include violent crime trends, gun-related crime, the homicide rate -- the most accurate crime trend -- or the gun-related homicide rate, or the percentage of homicides involving firearms. By any and all such standards, New Jersey's gun law has been irrelevant to crime in this State. The violent crime rate here has gone up almost 300% since 1965, while going up just over 200% nationally, and only 50% to 200% in a number of less

restrictive states, particularly some of the southern states, like Virginia, Georgia, West Virginia, and Arkansas, to say nothing of the less restrictive neighbor of New Jersey, Pennsylvania.

The New Jersey use of guns in homicides and other crimes has pretty much mirrored national trends. It has started lower here, and has remained so. Gun use in homicide has fallen substantially in such more lenient states as Arizona, Kentucky, West Virginia, and others -- northern, southern, and western. In gun use, New Jersey's law has been a wash, but violent crime in general has risen so much that gun-related violent crime here has risen faster than in the nation as a whole. So fast has your robbery rate risen, that your gun-related robbery rate now is higher than your overall robbery rate was in 1965. In Pennsylvania, to cite your neighbor again, that is simply not true. Your homicide and gun-related homicide rates here have risen much faster than in many of the southern states. Interestingly, violence, homicide, and gun use in homicide have increased even more than in some of the more restrictive states of New York and Massachusetts -- on the order of a 300% or 400% increase in violent crime there.

There are no data to show that the New Jersey law has had any benefits countervailing the abuses which have occurred. If there were, I might try to balance the loss of freedom with a slowing of crime. Criminologists have found no cost-benefit justification for such restrictive gun laws such as your permit system. These scholars include those initially anti-gun, such as Professors Wright and Rossi of the Department of Justice's Felon Survey; those still anti-gun, Professors Phil Cook, Duke University, and Matthew (inaudible) of Florida State; as well as those without preconceptions, Professors Maggadino and Medoff (phonetic spellings) of Cal State-Long Beach, Gary Gleck (phonetic spelling) of Florida State, and Douglas Murray (phonetic spelling).

Colonel Pagano's data show no benefits from law, and cite denials of permits as the only evidence that the law is working. So far, there are no benefits from your law, only costs in losses of civil liberties and tax dollars, to say nothing of citizen dollars devoted to enforcement of this crimiogenic law aimed at, as Colonel Pagano suggests, controlling the rights and liberties of the people.

Thank you. (applause)

MR. MANNING: First of all, I would like to thank this Committee for having these hearings. We do appreciate your investigating these abuses. I think the evidence has been pretty clear that there are some systematic abuses in the State of New Jersey.

There is one aspect that I would like to talk about, which was brought up earlier today by the prosecutor from Middlesex County, the issue of confiscation of guns in domestic disputes. It occurs to me that a woman involved in a domestic dispute situation typically is being beaten by her husband. In that situation, that woman has one opportunity, in the event that the husband continues to beat her, to defend herself, and that is through possession of a firearm. This State chose, earlier this year, to declare that self-defense was a right that people have, and changed the self-defense laws to mirror that conception. And yet, the prosecutor's policy, on his own, has gone directly against that legislative initiative by denying a woman, in the event of a domestic dispute, from that very means of self-defense. I don't think this Committee can afford to ignore that basic contradiction which exists between that prosecutor's actions and the obvious intent of the Legislature in passing the self-defense bill.

The second point: There were a number of comments regarding FBI background checks and the length of time it requires to turn those around. In the past, the FBI has been extraordinarily slow in turning those background checks



around. I contacted the Federal Bureau of Investigation this week, and received a letter back from the Chief of the Recording Section, Identification Division, a Mr. Melvin Mercer. it is about one line, and I would like to read it:

"Mr. Manning: Reference is made to your telephone conversation with Mr. Billy P. Martin of my staff on September 17, 1987. The average FBI turnaround time for applicant fingerprint cards is 14 working days."

That indicates that the 30-day permit period ought to be able to be complied with. I think we have seen pretty widespread evidence that, in fact, it is being ignored, even though it is a direct legislative directive.

To get to the basic text of my remarks, I sat around and I said, "How am I going to relay to this Committee how I became so personally interested in what is happening here in New Jersey? How did it hit me in the gut? What was the thing that made me say, 'There is a problem here'?" Well, I was at the Texas Sheriffs' Association Meeting, talking to various law enforcement officials, and I had a gentleman come up to me -- a sheriff -- and the first thing he said was, "Rick, I've got a problem." I said, "What is it?" "My son. My son was arrested in New Jersey for having a gun." I said, "I'm sorry. What exactly happened?" The man looked me in the eye, and he told me his son was in a truck wreck and, in fact, had been badly hurt. He had been dragged from an emergency room by the State Police, put under arrest, chained to a pole for five and a half hours -- with gauze wrapped around his feet because they were soaked in blood -- denied food until he explained that he was a diabetic and it was detrimental to his health, and denied medication and painkillers. He was forced to walk to his truck, which was a half a mile away -- or forced to walk to a car which was a half a mile away -- after being released, denied a phone call to his attorney, and denied being Mirandized before questioning.

This sheriff looked at me, and said, "How could this happen to my son? My son has always been a law-abiding citizen. I have lived the law for 25 years. The law is my life. How could the State of New Jersey do this to my son?" I had to tell him, "I don't know how the State of New Jersey could do that to your son, sir. I just don't understand it."

He asked me, "Isn't the State of New Jersey part of the United States? Don't you have constitutional rights in New Jersey as we do in Texas?" I had to tell him, "I guess not," because his son was not allowed those basic freedoms -- those basic civil liberties that we all take for granted. His son did have the opportunity to testify. His case is pending. I want to just relay to you that our objection is not with law enforcement. Our objection is with bad enforcement of bad laws.

We agree with Colonel Pagano, violent criminals and drug abusers should be prohibited from owning firearms. However, that is not what these hearings are about. These hearings are about Kay Ohye, a man who should be a source of pride to the State of New Jersey as an internationally renowned shotgunner, a man who is held in high esteem in the shotgun community, who was caught in a legal Catch-22 because he tried to comply with the law. This Committee has had an opportunity to hear from Mr. Ohye. They are about Debra O'Hara, a woman who for six years tried to get a permit to purchase I.D. card, and was denied because she was a woman. They are about Bill Tuff, who had his car broken into by local police, his guns stolen, and then he got the great deal of PTI, which is going to deny him his firearms forever. They are about Bill Hornung, a 77-year-old man who, in the middle of the night, had his firearms stolen from him by the police. These hearings are about people -- law-abiding citizens, people like you and me, who want to live their lives in peace, want no trouble with anybody, but they want to be able to have the choice of whether to own a firearm or not, without being abused by anybody.

I encourage this Committee to review the testimony. We will be very pleased to work with you in developing remedial legislation. Thank you for holding these hearings. Thank you very much. (applause)

ASSEMBLYMAN STUHLTRAGER: Doctor, Mr. Manning, thank you very much.

At this time, Assemblyman Kamin, do you have any remarks you would like to make here as we wrap up this public hearing?

ASSEMBLYMAN KAMIN: Thank you, Mr. Chairman. I am just pleased that I had the opportunity to be here to hear part of the hearing. I'm sorry I could not join you last week. But this hearing has been informative for me, and I look forward to working on the legislation that may be sponsored by this Committee. There certainly is a need for it, no question.

Thank you.

ASSEMBLYMAN STUHLTRAGER: I think Mr. Manning has pretty much wrapped up. Mr. Irwin, you have something to say, I take it, since you have joined us at the table.

MR. IRWIN: On behalf of the Coalition of New Jersey Sportsmen, and all the sportsmen and sportswomen of this State, I want to particularly thank you, Mr. Chairman, for the time you have devoted to this, and the understanding you have brought to these hearings. You sat through two days of hearings. We have presented a lot of witnesses. I would like to suggest to you that, if we had the time for 20 days of hearings, we could keep the witnesses flowing, because I am sure you have perceived that the problems are very widespread.

Thank you very much, Mr. Chairman.

ASSEMBLYMAN STUHLTRAGER: Thank you, Mr. Irwin.

Transcripts will be prepared of this hearing. I am going to make sure that I encourage my fellow legislators to take the time to read the transcripts because, as important as it is for your group and others interested in this subject to

have an outlet, it is important for me -- I know Assemblyman Kamin and I were speaking of it during the break -- it is important for us to learn, because it is a complex area, and frequently legislation comes before the Assembly and, whatever the topic may be, if you are not an expert in it, you are somewhat doubtful as to what the right thing to do is when you have to cast that vote.

I am very happy that when legislation comes up in this area, I am going to make a much more informed decision, based on what you have been able to impart to me today, and last week.

What I would say is, some may leave this room and wonder, you know, where are we going from here? What is the direction we are going to take? Well, this is a statute that has been in effect for 20 years. It is not something that is going to be changed overnight. We have to make some very important decisions whether or not some of these things can be remedied through a regulatory, policy-making manner, whether legislation is absolutely necessary, and if legislation is the route for us to take, whether it should be in a piecemeal fashion or whether a comprehensive review and a package of bills is necessary.

So, we have some important decisions to make, and the information gathering process isn't over when we leave here today. I know I have asked some people to submit additional comments as their cases come up and their situations either resolve themselves or do not resolve themselves. Those of you who are the leaders of the organizations -- I know you will stay in touch. But I think maybe as much as anything else, we have tried here to not only get your point of view out, but to bring together the disparate elements, which is absolutely essential if we are going to have real reform and fair, equitable administration of the firearms statutes.

I want to thank those of you who testified for making it a substantive testimony, even within the bounds of your own



personal experiences, some of them very emotional. It has been substantive, and I have taken it that way. I think we can get something through the testimony of Colonel Pagano. Some things regarding the firearms we saw here may not have been directly relevant, but when I listened to the Colonel, I heard a willingness there to discuss with us how we can better enforce and administer and reconsider the statutes. It is going to be a team effort, and I want to be part of that team. I know we are all going to be happier with the result if there is a willingness to listen and a willingness to work together. I think we can make this a better State for the sportsmen and the law-abiding citizens and, at the same time, protect the legitimate health, welfare, and safety of everyone in the State of New Jersey.

Thank you all for coming. I hope you will keep us informed of any progress, and we will do the same. Mr. Irwin, thank you.

MR. IRWIN: Thank you.

(HEARING CONCLUDED)

**APPENDIX**

STATEMENT OF THE  
NEW JERSEY DIVISION OF CRIMINAL JUSTICE

In 1986, approximately 20,000 murders were committed in the United States. The Uniform Crime Report Statistics indicate that 59 percent of these murders, or three of every five, were committed with a firearm. New Jersey Uniform Crime Report, 1986, p. 24. In New Jersey during this same period, 397 murders were committed, with 39 percent being committed with a firearm. New Jersey's rate of murders committed with firearms is thus 20 percent less than the national average, a clearly significant difference. The Division of Criminal Justice suggests to you that this State's gun control law is working well, and is a prime cause for these statistics.

The fundamental aim of this State's gun control law is to keep firearms from those who are psychologically or emotionally unstable, unqualified to handle weapons properly, or are criminally minded, without unduly infringing upon the interests of law-abiding citizens. To accomplish the public purpose of preventing criminals and other unfit elements from acquiring firearms, the Legislature has set up permit and identification requirements and provided for disqualifications, along with suitable inquiry into applicants' qualifications and fitness. In addition, strong sanctions are provided for those who possess or use guns in the commission of crimes.

In framing the existing gun control law contained in the criminal code, as well as its predecessor statutes, this State's

Legislature was aware of the many disastrous consequences which resulted from the widespread absence of regulation in earlier times, as well as of the strongly expressed views of many law enforcement officials, who have long favored state and federal regulation of the sale and possession of firearms. Wholly apart from the dangers which arise when firearms are in the hands of criminals, there is the danger when they are in the hands of the immature or the unfit, such as the mentally deranged, the addicted and the alcoholic. The recent rash of shootings on California highways has brought even more clearly into focus the great dangers associated with the proliferation of firearms. Our gun control law is explicitly designed to keep firearms from all such persons whose possession would pose a threat to the public health, safety or welfare. See N.J.S.A. 2C:58-3a; 2C:58-4.

While not questioning the legitimacy of the legislative objective, some opponents of the gun control law urge that this objective cannot be attained and that, as a practical matter, the law will not prevent hardened criminals from obtaining firearms, while it does in fact impose restrictions on those engaged in lawful pursuits, such as hunting and target shooting. The restrictions in our gun law are not prohibitions to possessing firearms but, rather, are regulatory requirements, not unlike the regulations governing the use of automobiles, and entail minor inconveniences which members of our society must accept and bear in the public interest. The fact that some criminals may, despite the law, still be able to obtain firearms does not at all negate the validity of the conscientious legislative efforts aimed at keeping



firearms out of the hands of all dangerously unfit persons, including the non-criminal as well as criminal. Indeed, within this State during 1986, strangers committed less than a quarter of the murders. In the remaining 76 percent, the murder victim was related to, acquainted with or a friend of his killer.

New Jersey Uniform Crime Report, 1986, p. 25.

Some opponents of gun control would also incorrectly argue that strict gun control laws contravene the Second Amendment to the United States Constitution. That amendment reads as follows:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

The origin for this amendment can be found in the great fear of military rule during the American colonial days. Colonists believed that standing armies were acceptable only in extraordinary circumstances and while under the control of civil authorities, and that the militia was the proper organ for defense of the individual states. When the Constitution was adopted, it expressly granted to Congress the power to call forth the militia to execute the laws, suppress insurrections and repel invasions. With their historic distrust of standing armies and the desire that the militia be protected from federal encroachment, the states, to protect their independence against the threat of a standing army of the central government, quickly obtained the adoption of the Second Amendment. See Burton v. Sills, 53 N.J. 86 (1968). As the language of the amendment itself indicates, it was not framed with individual rights in mind. Thus, it refers to the collective right "of the people" to keep and bear arms in connection with "a

well regulated militia." It is now clear that the term "well regulated militia" must be taken to mean the active, organized militia within each state, which today is characterized as a State National Guard. United States v. Oakes, 564 F.2d 384, 387 (10 Cir. 1977); United States v. Johnson, 497 F.2d 548, 550 (4 Cir. 1974); United States v. McCutcheon, 446 F.2d 133, 135-136 (7 Cir. 1971); Engblom v. Carey, 522 F.Supp. 57, 71 (S.D.N.Y. 1981).

Regulations, such as New Jersey's gun control law, which do not impair the maintenance of the State's active, organized militia, do not at all violate either the terms or purposes of the Second Amendment. See United States v. Miller, 307 U.S. 174 (1939); Presser v. Illinois, 116 U.S. 252 (1886); United States v. Cruikshank, 92 U.S. 542 (1876). The amendment does not provide an unrestricted, individual right to own guns, analogous to the First Amendment's right of free speech, but, rather, a collective right to bear arms in a military capacity in order to protect the State against possible encroachment by the federal power. United State v. Tot, 131 F.2d 261, 266 (3 Cir. 1942). The right to keep and bear arms is not a right conferred upon individuals by the federal Constitution. Whatever rights people may have in this regard depend on local legislation. Cases v. United States, 131 F.2d 916, 921 (1 Cir. 1942). Some states have, under their own constitutional provisions, a "right to bear arms" which is interpreted according to that state's particular constitution and law. See, e.g., Quilici v. Village of Morton Grove, 695 F.2d 261, 269-271 (7 Cir. 1982). There was, however, no intention on the part of our Founding Fathers to guarantee the private use or

possession of firearms. Because New Jersey has no counterpart to the Second Amendment to the federal Constitution, a New Jersey citizen has no individual "right" to own a gun, under either constitution, and has only such privilege to use or own a firearm as the Legislature confers.

Long before the enactment of the gun control provisions of the criminal code, or its 1966 predecessor, see N.J.S.A. 2A:151-1 et seq., New Jersey had many statutory provisions imposing restrictions not only on the carrying but also on the possession and sale of designated firearms. All such laws were sustained because, in the exercise of its police power, the State can properly impose conditions precedent to the carrying of weapons, as the safety and welfare of the people of the State require. Even in jurisdictions which have express state constitutional provisions dealing with the right to bear arms, courts have found little difficulty in upholding varying and extensive statutory firearms regulations in view of the great public safety considerations involved. See, e.g., Quilici v. Village of Morton Grove, supra (court upheld town's prohibition of handgun ownership, even though the Illinois state constitution specifically provided a "right" to possess firearms, which included handguns; empirical evidence that gun control legislation may reduce the number of deaths and accidents caused by handguns was sufficient to permit local home rule unit to enact arms restrictions inconsistent with the state constitution). In New Jersey, as elsewhere, the general welfare concept has received broad definition. When the legislature deals with

dangerous articles such as firearms, its power necessarily has a far reaching sweep.

Our law carefully limits who may obtain a firearm. Such limitations are essential and provide the first step in protecting our citizenry from the misuse of guns. Before acquiring a handgun, a person must secure a permit to purchase a handgun, regardless of whether the weapon is actually purchased or received as a gift. N.J.S.A. 2C:58-3a. In order to legitimately possess a rifle or shotgun, other than an antique rifle or shotgun, a person must have first obtained a firearms purchaser identification card, pursuant to N.J.S.A. 2C:58-3b. Certain persons are disqualified from the purchase or other acquisition of a firearm. Specifically, no handgun purchase permit nor firearms purchaser identification card may be issued to a person who has been convicted of a crime, to a drug dependant person, to a person confined for a mental disorder, to a person who is presently an habitual drunkard, to a person under the age of 18, to a person suffering from a physical defect or disease which would render the handling of firearms by him unsafe, or to any other person where the issuance would not be in the interest of the public health, safety or welfare. N.J.S.A. 2C:58-3c. Our law specifically provides that a non-resident is eligible to obtain a New Jersey permit to purchase.

A background check is undertaken for each applicant, in order to assure the validity of the information furnished in the application. An application for a permit is submitted to the chief of police of the municipality where the applicant resides or to the Superintendent of the State Police in all other cases. The



chief of police or superintendent, in investigating and acting upon the application, is authorized to obtain the fingerprints of the applicant and have them compared with fingerprints on record in the municipality and county in which the applicant resides as well as with the records held in the the State Bureau of Identification and the Federal Bureau of Investigation. If a permit or identification card is denied to a person, that person may request a hearing in the Superior Court in the county in which he resides, if he is a resident of New Jersey, or in Superior Court in the county where his application was filed if he is a non-resident. The Superior Court is also authorized to revoke any firearms purchaser identification card where, after a hearing, it finds that the holder of the card no longer qualifies for the issuance of such permits. Such revocation would occur if a condition developed which would have disqualified him from purchasing or acquiring a firearm in the first place. For example, if the card holder is convicted of a crime, he would no longer be allowed to possess a firearm. N.J.S.A. 2C:58-3c. The county prosecutor of any county, the chief of police of any municipality, or any other citizen may apply to the court at any time for the revocation of such card.

The best way to achieve the goal of assuring that firearms are kept from those in whose hands they would prove dangerous is through the maintenance of strict registration requirements and limits on the transfer of firearms. See N.J.S.A. 2C:39-1 et seq.; 2C:58-1 et seq. The purpose of these permit requirements is to ensure to the greatest degree possible that persons who should

not be allowed to possess a firearm do not do so. See, e.g., N.J.S.A. 2C:39-7; 2C:58-3c. In this respect, the importance of a thorough investigation of an applicant's background cannot be overemphasized. Sportsmen and others with lawful intent have nothing to fear from this procedure. Accordingly, the Division of Criminal Justice strongly opposes any effort to weaken any facet of the registration process, particularly the background investigation feature. N.J.S.A. 2C:58-3. Although conducting a thorough investigation takes time, no one can dispute that it is time well spent. The slight inconvenience to the applicant which is entailed is insignificant when compared with the consequences of allowing even a single unfit person to acquire a lethal weapon.

The safeguards provided by such background investigations are absent when any firearm is placed in the hands of a person who does not possess a permit, even if for only a short time. Clearly, there must be some State-established control over who will be handed a firearm at target ranges. This would help prevent tragic events from occurring. For example, in Passaic County last year a man committed suicide with a firearm at a firing range where he had been handed a firearm after minimum security precautions were taken. Thus, the Division of Criminal Justice has argued for a strict construction of N.J.S.A. 2C:58-3a, which prohibits any transfer of a firearm to another unless the latter person also possesses the appropriate authorization to obtain a firearm. The courts have agreed with this narrow interpretation of our law. In November of last year, the operator of a target range was prohibited from renting firearms to individuals to fire on his range, unless

these persons had valid firearms purchaser permits. Crossroads Gun Shop v. Edwards, 214 N.J. Super. 244 (Law Div. 1986).

The Division of Criminal Justice has long opposed the expansion of firearms carrying privileges. Under New Jersey law, apart from certain limited exceptions, the carrying of handguns by individuals in their cars or on their persons is clearly forbidden, unless the person carrying the handgun has a permit issued in accordance with N.J.S.A. 2C:58-4. Recognizing the high dangers incident to such carrying, the permit is not to issue in the absence of an affirmative showing of need. N.J.S.A. 2C:58-4d; Siccardi v. State, 59 N.J. 545 (1971) (theater manager, claiming need to transport late night receipts to bank depository, failed to establish need to carry a handgun where neither he nor a member of his family had ever been subjected to an assault or attack in over 35 years of operating the business, and where expert testimony indicated permit would have afforded hardly any measure of self-protection and would have involved manager in known and serious dangers of misuse and accidental use); Doe v. Dover Tp., 216 N.J. Super 539 (App. Div. 1987) (statement that business man carried "large sums of money and jewelry" from his business in Ocean County to secondary business in Bergen County was insufficient showing of need to justify the grant of a permit to carry a handgun; the court held that the minimal protection afforded by a handgun, in the absence of showing of particular need beyond that applicable to all those engaged in a similar business, "is still greatly outweighed by the dangers to society inherent in the proliferation of handguns"). Even antique handguns

are included in the prohibition against carrying a firearm without a permit. See N.J.S.A. 2C:39-5b; see also State v. Schreier, 135 N.J. Super. 381 (App. Div. 1975) (where defendant carried fully loaded replica antique gun in a holster, he did not possess the weapon as a curiosity, ornament or for historical value, and thus was not entitled to an exemption from the permit requirements. Compare N.J.S.A. 2C:39-1a, enacted subsequent to Schreier, supra, and providing that, to qualify as an antique, a firearm be possessed "as a curiosity or ornament or for its historical significance or value."). It is, however, lawful for a person to carry a firearm in the woods or fields for the purpose of hunting or target practice, provided that the firearm is otherwise legally possessed and appropriate for hunting in this State, and that the person possesses a valid hunting license.

During the previous legislative session, N.J.S.A. 2C:39-6, which regulates the circumstances under which a person may carry a firearm, was frequently amended. Because of the number of recent changes to this section of the law, which excepts certain categories of persons from the general prohibition against carrying a firearm, it is understandable that the law is somewhat confusing to both professionals and laypersons alike. The solution, however, is not to start anew to amend the law, a law which in general is extremely effective, but to more carefully circumscribe any further expansions to gun carrying privileges. Gun carrying in this State must be limited to those persons who demonstrate competence in handling weapons, and a need to carry which significantly benefits the public.



Even for law enforcement officers, carrying privileges have been carefully regulated, and often limited to an "on-duty" authorization to carry. See New Jersey State Special Police Ass'n v. Atty. Gen., 201 N.J. Super. 75 (App. Div. 1985). Before a law enforcement officer may carry a firearm, he or she must receive approved firearms training and annually be requalified in the use of a firearm. N.J.S.A. 2C:39-6j. The Division of Criminal Justice has consistently promulgated a policy opposing the proliferation of weapons where the risk factors associated with weapons may outweigh any advantage to be gained by the expanded use of weapons in particular cases. Thus, we have opposed a blanket grant of off-duty authorization to carry firearms to all whose employment entails the use of guns, in consideration of the specialization of their duties or limitations of their training. See N.J.S.A. 2C:39-6c(1) (limiting gun carrying by special taxation agents, parks and forestry conservation officers, court attendants, bank guards and others to while in the actual performance of their duties). Just as permits to carry handguns are based on affirmative need, so should all exceptions to the permit requirement be based on a showing of real need and public benefit. That is, it is not sufficient merely to assert that a particular group or class fits into a particular category, for example law enforcement, to justify an exemption from the permit requirements. Any exception which is granted must be based upon a demonstrable need, a real benefit to the public welfare and adequate training. Further, the scope of the exception should be no greater than is absolutely necessary to accomplish its purposes.

While registration requirements protect the public by seeking to limit the possession of firearms to the law-abiding and fit, further protective measures are needed to assure not only the absence of disqualification but that those who have firearms are fully qualified to do so. Since the Division of Criminal Justice is continually involved in lessening the risk factors associated with firearms, we now advocate that all persons seeking to acquire or possess firearms, and not just law enforcement officers, be fully trained and qualified in the safe handling and use of firearms. It is, at the very least, ironic that we require police officers to receive special training before they may carry a firearm, but allow any private citizen to possess a firearm with absolutely no demonstration of basic competence in its safe handling and use. We require that people demonstrate basic competence before we give them licenses to drive automobiles; there is no justification for not requiring a similar demonstration of competence before allowing persons to possess and use firearms. To this end, the Division of Criminal Justice favors the institution of a training component or similar certification in the licensing process. It is in everyone's best interest to see that those who lawfully possess firearms do not carelessly injure themselves or others. Presently, the purchase of a firearm requires no indication whatsoever that the buyer is competent to use the weapon. It is of note in this regard that, although a person seeking a permit to carry a handgun must satisfy the issuing court that he is "thoroughly familiar with the safe handling and use" of handguns, there is no

standard of what constitutes a sufficient showing of skill and knowledge.

In addition to stringent regulation of the purchase and carrying of firearms, our law provides carefully drawn guidelines for their transportation, and specific exemptions for certain persons who have legitimate reasons for possessing firearms in specialized locations. For example, a licensed dealer in firearms and his registered employees may lawfully transport machine guns, handguns, rifles and shotguns from their place of business to other places for the purpose of demonstration, exhibition or delivery in connection with a sale. N.J.S.A. 2C:39-6b(2). Any citizen without a criminal record may keep a handgun, rifle or shotgun in his home or business and transport the weapon between those locations, and to and from a licensed dealership. N.J.S.A. 2C:39-6e. Members of a rifle or pistol club may transport handguns, rifles and shotguns as are necessary for target practice to or from the place of target practice, providing that the club has filed a copy of its charter with the Superintendent of State Police and submits a list of its members to the Superintendent. N.J.S.A. 2C:39-6f(1). A person may lawfully transport a firearm to or from any place for the purpose of hunting, provided that the person has in his possession a valid hunting license. N.J.S.A. 2C:39-6f(3)(a). A person may transport a firearm to or from any place such as a target range or other such authorized place for the purpose of practice, match, target, trap or skeet shooting exhibitions. N.J.S.A. 2C:39-6f(3)(b). A person may transport a firearm to or from any exhibition or display of firearms which is

sponsored by a rifle or pistol club, firearms collectors club or law enforcement agency, for the purpose of displaying the firearms to the public or to the members of the organization or club. However, in this latter case sufficient notice must be given to the Superintendent of State Police of the exhibition or display, and the sponsors must comply with reasonable safety regulations as the Superintendent may promulgate. N.J.S.A. 2C:39-6f(3)(c).

While transportation in each of the foregoing situations is legal, the law contains important requirements to insure that this is carried out safely. All firearms being transported must be carried unloaded and contained in a closed and fastened case, gun box or securely tied package, or locked in the trunk of the automobile in which it is being transported, and the course of travel must include only such deviations as are reasonably necessary under the circumstances. N.J.S.A. 2C:39-6g. Even an out-of-state resident, when transporting a firearm through New Jersey, is required to fulfill the New Jersey requirement with respect to the proper encasing of his weapon. State v. Hatch, 64 N.J. 179 (1973). The open handling or display of rifles or shotguns by hunters while traveling to hunting areas presents dangers that the Legislature sought to avoid even where permits and identification cards have been obtained. Cf. State v. Neumann, 103 N.J. Super. 83, 86-87 (Cty. Ct. 1968). Thus, New Jersey recognizes that there are legitimate uses for handguns, rifles and shotguns and seeks only to assure that those possessing firearms will use them for those lawful purposes and transport them in a safe manner.



Recent amendments to the federal gun control act for the first time address the issue of the interstate transportation of firearms. While a person may carry a firearm from any place where he can lawfully possess the gun to any other place where this possession is lawful, the federal law requires that the firearm be unloaded and that neither the firearm nor any ammunition being transported may be readily accessible from the passenger compartment. Where the vehicle has no separate compartment, the firearm and ammunition must be in a locked container, other than the glove compartment or console. 18 U.S.C. §926A. Thus, for example, a truck driver travelling through New Jersey who carries his firearm in the sleeper compartment of his cab, which is directly behind and accessible from the seating area; or who carries his ammunition in his glove compartment, would be in violation of both State and federal law. He may lawfully carry his firearm in the trailer of his truck or in a locked container. The federal law also specifies that, unless it is in "direct and positive conflict" with the federal law, State law will remain valid. 18 U.S.C. §927. Thus, anyone transporting a firearm, which is either loaded or accessible, through this State will still be in violation of State law and will be afforded no relief under the federal law.

Strong sanctions exist against criminals who possess and use guns. Presently, persons convicted of certain offenses against others while armed with a firearm are subject to a mandatory minimum sentence of 18 months for a fourth degree offense, and at least 3 years for crimes of the third degree or higher. N.J.S.A.

2C:43-6c. The New Jersey Supreme Court has held that a weapon need not be operable for these mandatory penalties of the Graves Act to apply, as long as it is a "real" firearm. State v. Gantt, 101 N.J. 573 (1986). This interpretation is appropriate, since even an inoperable weapon in the hands of one committing a crime can engender terror and panic on the part of the victim and elicit a tragic response. See State v. Jones, 160 N.J. Super. 146 (App. Div. 1978).

Current laws need to be amended to expand prohibitions against imitation firearms, simulated antique firearms, and firearms which incorporate new technologies. For example, starter pistols such as those used in sporting events give the appearance of functioning handguns, and have been used to commit robberies. The unlawful use of these non-lethal items clearly invites the resort to deadly force by police and others. While a perpetrator may presently be convicted of armed robbery under these circumstances, State v. Hutson, 107 N.J. 222 (1987), such conduct should, in itself, constitute a weapons offense under N.J.S.A. 2C:39-1 et seq., since under the present law the police can take no action before a crime is committed. That is, confronted with a miscreant carrying a starter pistol and ski mask at 2:00 a.m., the police must wait until the suspect actually attempts to use the pistol before they can intercede.

Similarly, the definition of "antique firearm" in N.J.S.A. 2C:39-1a is ambiguous as to whether it includes so-called "replica" antiques, which are designed to simulate the appearance of antique firearms. In actuality, these are fully operable firearms which

merely look like antiques. They should, therefore, be subject to the same licensing requirements as ordinary firearms. Insofar as the present law is unclear in this regard, it should be clarified.

Handguns made entirely of plastic are reported to be on the horizon. Indeed, gun manufacturer David Byron testified at congressional hearings in May 1987 that his Florida company will have a prototype for an all-plastic gun within nine to fifteen months. Even if improved X-ray machines -- capable of displaying plastic images to an operator -- become standard detection equipment, there is no comparable advance projected for walk-through metal detectors. In the same way that inexpensive, easily concealed Saturday-night specials are best suited for criminal use, technology has now promised a category of handguns ideal for terrorists intent on invading airlines, public buildings and government offices - a firearm some have referred to as "the hijacker special." These weapons serve no legitimate purpose, and their purchase and possession by private citizens should be completely prohibited by the Legislature.

Also serving no legitimate purpose are hollow nose, or "dum-dum" bullets, which may currently lawfully be used for hunting. N.J.S.A. 2C:39-3f; N.J.S.A. 2C:39-6f. Because these bullets are extremely destructive, it is difficult to imagine why they would be needed in hunting. They should be banned.

In sum, the Division of Criminal Justice recognizes the legitimate interests of sportsmen and hunters in safely using firearms, but does not recognize the mere existence of a weapon as a justification for its purchase and possession under the general

rubric that it may be of interest to "collectors." Given the unique potential for disastrous consequences from any use of any firearm, we must start with the assumption that, absent some compelling reason to permit acquisition, possession or use, uncontrolled availability of firearms should not be allowed by law. Our present statute goes a long way toward meeting that goal. Thus, to the extent that hunters and sportsmen use rifles and shotguns to hunt, trap shoot, or target practice, they are permitted to possess, transport and use their weapons. A high standard of justification must be met before any new technologies in firearms are developed and permitted to be made available to the public. Any individual or group of individuals who desires to be exempted from the permit requirements presently in the law should justify their proposed exception on the basis of need, public benefit and training, and the exemption should be no greater than is absolutely necessary. Only when we hold each proposed weapon and each proposed exemption to these standards can we truly effectuate the underlying purpose of the gun control law enacted 21 years ago, and continued under the penal code, a proposal with which no one can legitimately disagree: the regulation of firearms to allow the citizens of this State to enjoy a safe, secure and peaceful life.



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