

Fall 1934

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Recommended Citation

Earl E. Munz, Plan for Control of Firearms, 25 *Am. Inst. Crim. L. & Criminology* 445 (1934-1935)

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A PLAN FOR CONTROL OF FIREARMS

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The evident ineffectiveness of police and courts in curbing crime has long been a matter of deep concern. Likewise, frequent reference is made to public indifference as a supporting bulwark of crime. To a great extent it is an uninformed or a misinformed public which tolerates alliance between the people's elected representatives, or politicians as we generally call them, and racketeers, gangsters, and others of the same ilk. Selling protection to members of the underworld for cash, favors, political support and other considerations is certainly not an unknown phenomenon in political circles, particularly those appertaining to large urban communities. Bad housing and slum environments making the home as such an unattractive family center, the ease of contracting associations in the city, to say nothing of the adverse educational effects of certain types of movies, theatres, pool rooms, saloons, and tabloids, all have their effect in breeding crime.

It is obvious that the effective control of crime involves a solution of a vast number of individual problems, many of which are closely interlaced with others. Moreover, the apparent solution of a single problem frequently engenders a number of unforeseen consequences, making the task of crime control seem hopeless. Nevertheless, we do make real progress from time to time, and, considering the growing complexities of modern life, especially in the cities, a certain negative satisfaction may be had by raising and attempting to answer the question—Why, under modern conditions, has crime not increased more rapidly than our records show?

Crime control includes attacks not only upon educational mediums facilitating crime and initiating novices, adverse environmental conditions, political mesalliances, and other allies of crime, but also upon certain important weapons of crime. Of these, firearms stand preëminent.

Since we cannot attack crime upon all fronts at the same time, let us launch our first attack in a really vulnerable spot, namely, upon the most important weapon used in crimes against the person: firearms. Although not changing adverse environmental or educational agencies, and effecting no change in the moral fibre of the criminal

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classes, restriction on a large scale of the manufacture, sale and use of firearms would almost inevitably result in a noteworthy decrease in the volume of vicious crimes against the person. Furthermore, since the boldness and the courage of so many criminals is directly dependent upon the possession of firearms, is it not to be expected that without such weapons they would be afraid to commit many crimes which seem easy to the armed, and therefore daring, criminal?

Mortality statistics issued by the Bureau of the Census over a period of ten years from 1922 to 1931, inclusive, reveal in startling fashion the importance of firearms as the direct cause of homicides.

TOTAL HOMICIDES—CONTINENTAL UNITED STATES

<i>Total</i>	<i>Homicides</i>	<i>By Firearms</i>	<i>By Cutting and Piercing Instruments</i>	<i>All Other Methods</i>
1922	7,788	5,714	883	1,241
1923	7,878	5,648	945	1,285
1924	8,420	6,028	992	1,400
1925	8,893	6,216	1,224	1,453
1926	9,210	6,377	1,322	1,511
1927	9,470	6,310	1,495	1,665
1928	10,050	6,857	1,465	1,728
Total registration area—states				
1929	9,909	6,540	1,601	1,768
1930	10,331	6,995	1,553	1,783
1931	10,862	7,335	1,662	1,865

Thus firearms accounted for 66 per cent of deaths by homicide in 1929 and slightly over 67 per cent in 1930 and 1931. These figures cover purposeful killings, and show clearly what an indispensable weapon the gun, revolver or machine gun is to the criminal. Firearms were also responsible for great numbers of suicides, and accidental deaths when criminal purpose or intent was absent. This is apparent from the following figures:

SUICIDES AND ACCIDENTAL DEATHS CAUSED BY FIREARMS

	<i>Suicides</i>	<i>Accidental Deaths</i>
1922	3,912	2,514
1923	3,900	2,578
1924	4,280	2,571
1925	4,333	2,570
1926	4,616	2,593
1927	4,989	2,741
1928	5,437	2,839
1929	5,660	3,015
1930	6,735	3,068
1931	7,409	2,989

Firearms directly accounted for 15,215 deaths in 1929, 16,798 in 1930, and 17,733 in 1931. It seems reasonable to assume that any effective curb on the manufacture, sale or distribution of firearms would have an appreciable effect in bringing about a reduction in the size of this death list. But first, let us consider whatever arguments might be marshalled against such a control.

It will be pointed out in the first instance that there are more deaths by firearms through suicide or accident than where deliberate intent to kill or injure prevailed. True enough, but modern society has never recognized that the individual possesses an inalienable right to do away with his own life whenever he chooses. Certainly it is within the province of the state as a matter of public welfare to keep dangerous weapons out of the hands of those who are suicide-minded. Similarly, no valid excuse can be offered for the thousands of accidental deaths resulting from the careless handling or use of firearms. Mistaken identity, accidental discharge, left within reach of children, and numerous other excuses daily reach the ear accounting for truly avoidable loss of life.

A second objection might be that America is still a young country, only a few generations out of the pioneer stage, and that the use of firearms by the public is still a part of our customs and mores. It is true that in certain communities, and especially among certain classes, the clandestine possession of firearms is very common, regardless of whether state or local ordinance requires a license. Where such weapons are desired the extreme ease of acquisition in most states presents no obstacle. Nevertheless, the possession of firearms by the population at large is not as extensive as one might suspect; the majority of families do not possess firearms, and it is futile to say that such possession and use are part of our customs and mores. A related objection is that restrictive laws as to the possession of firearms would be looked upon as an encroachment upon personal liberty, just as prohibition was regarded. Such an analogy falls down because of the fundamental difference between the use of alcohol and the use of firearms. In the former case intoxicants used moderately have little or no effect; used intemperately the chief sufferer is the drinker himself (excluding social consequences to his family and the like). A similar freedom to possess and use firearms constitutes not merely a menace to the owner, but to many others. A loaded gun, pistol or machine gun is a potential weapon of destruction, ready at an instant's notice to obey the deliberate calculated decision of a robber or bandit, the insane fear or overwrought nerves of the possessor,

the playful fingers of a child, or the optical illusion of a hunter. In New York State, which has one of the best restrictive laws in the country prohibiting the sale or the possession of any kind of a deadly weapon except by those licensed to own or carry them, there has been no loud public protest or complaint against the infringement of personal liberty.

A further objection frequently expressed and just as frequently implied is to this effect: why worry so much about firearms, especially in the possession of the underworld gangs, when the principal use of such weapons is to kill off their own colleagues in crime? Perhaps we might even regard the gun in the hands of the gangster a social ally when used for such a purpose! But a second's reflection is sufficient to show that the criminal's use of firearms is not dedicated solely to killing off his own kind. It is his devoted friend in effecting robberies, hold-ups, kidnappings, in racketeering and numerous other nefarious and criminal acts. Furthermore, every shooting or killing of one gangster by another is in the eyes of the law as much a crime against the state as would be the murder of an innocent citizen, notwithstanding the indifference of the police.

Turning next to the economic argument it is contended that arms and ammunition are legitimate products of manufacture and trade. So many thousand workers are employed in these industries and depend upon them for their livelihood, to say nothing of the invested capital, that it would be an injustice to laborer and capitalist alike to destroy the market for their product. The total value of firearms manufactured in the United States by other than governmental establishments amounted to \$21,970,367 in 1929, a representative year, while for the same period the value of ammunition was in excess of \$36,000,000. From these amounts, however, one must deduct the value of firearms and ammunition sold for police and military use, as well as of that portion exported. Figures for the former are scarcely ascertainable, but the value of exports of firearms totalled \$2,567,000 in 1929, \$1,132,000 in 1930 and \$616,000 in 1931, while the value of ammunition exported in the same years was \$3,022,000, \$2,003,000, and \$1,281,000, respectively. About 14,000 wage earners are employed in arms and ammunition factories with wages approximating \$17,000,000 annually.¹ Very strict control over the possession of firearms by the public would eliminate the domestic phase of the market, and since exports represent but a very small part of the total production, the

¹Data compiled from Statistical Abstract of the United States (1933); also Fifteenth Census of the United States, 1930, Manufacturers (1929) Vol. II.

industry would be badly handicapped; labor and capital employed therein would be forced to find new outlets. But the question, however, remains as to whether labor and capital involved in the manufacture of anti-social goods can have a vested right to continue such production unrestricted. Such has never been the rule in the United States, as may be seen in the case of harmful drugs, the manufacture of distilled spirits or, stretching our example a little further, of manufacturing counterfeit money or any other anti-social good.

Having established a case for the control and restriction of the use and possession of firearms, it behooves us to consider the possible mediums through which effective control may be exercised.

The two principal agencies through which effective control may be exercised are the state and the Federal governments. The latter particularly appears in position to take a leading rôle in this matter. Without involving any constitutional difficulties the Federal government may exercise restrictive powers over firearms in exactly the same fashion as it has done with respect to narcotic drugs. Thus either an import tax so high as to be prohibitory may be levied upon firearms and ammunition, or the importation of these commodities may be forbidden, except for such as might be brought in on governmental account for official use, or such as might be smuggled into the country. The control of smuggling is admittedly a difficult problem, but if mere possession can be made a serious offense the desire for firearms is apt to be minimized as we shall see. A still more important control over firearms may be asserted by the Federal government through its power of regulating interstate commerce. As in the case of narcotic drugs the Federal government could well prohibit the unlicensed sale or transportation of firearms or ammunition in interstate commerce. Similarly, as a check upon manufacturers a Federal license might be required and a special tax of rather high proportion be levied upon such part of the product as was not destined for governmental purchase and use. A drawback or refund of the tax might be allowed upon proof of export. The tax should vary according to the type of weapon, being much higher in the case of those which could easily be concealed, and of lesser amount with respect to larger guns or rifles intended primarily for use on the farm and in hunting. The manufacture of certain types, such as machine guns, should be prohibited, except where the manufacturer is under governmental contract, in which event a careful and exact record of production would be necessary. Inasmuch as the consumer purchases from a retailer—general store, hardware store, department store, mail order

house, pawn broker or the like, the licensing feature should be extended to the retail dealer as well. This, of course, would tend to restrict greatly the number of dealers, since firearms are sold only as a side issue by the vast majority. Some difficulty might be experienced in extending the licensing idea to local dealers since they are not engaged in interstate trade. In that event such licensing must fall to the lot of the individual state.

The chief activity of the state will necessarily center around the determination as to who shall be entitled to possess or use firearms, and under what conditions such permission shall be granted. This should be specifically a state function, and not delegated to the local units, for it is through the latter that unscrupulous persons, criminals, and gangsters find it easy today to obtain the legal right to carry firearms. For thorough going effectiveness it is necessary that there be considerable uniformity in state laws on this subject. A model law might be drafted by Federal authority, or some private agency interested in crime control and urged upon the various states for adoption.

It goes without saying that very drastic legislation is needed to produce any sort of effective control. The following plan is suggested as offering the greatest public security.

1. Every firearms manufacturer shall be licensed.
2. Every weapon shall bear the manufacturer's name and serial number. A smooth space of given dimension must be left on the weapon for engraving identification data as required by law.
3. Every dealer in firearms and ammunition shall be licensed.
4. Any person desirous of purchasing firearms must present an authenticated permit in duplicate issued by state authority before the merchant shall be permitted to sell such weapon to him. The merchant shall fill out the permit, giving his name and address, the name and address of the purchaser, description, and serial number of the weapon. The weapon shall thereupon be sent by the merchant to the state agency from which the permit was issued, who shall cause the purchaser's name and license number to be engraved thereon together with governmental identification marks. The purchaser may then obtain his weapon from the state authority.
5. Every person possessing firearms after a given date must surrender same to a designated state authority. If felt necessary to avoid constitutional difficulties, such as depriving the individual of his property without due process of law, remuneration of a limited amount might be allowed for each weapon surrendered. If the owner is desirous of retaining his weapon, a good and sufficient case as to the

need of retention must be established, whereupon a license may be granted and the owner's name and license number engraved upon the weapon together with governmental identification marks.

6. Legal possession of firearms is possible only when a state license has been granted to own and possess a particular registered weapon. Licenses shall be renewable annually, and in event of refusal on the part of the government to renew a license or failure on the part of licensee to seek renewal, the registered weapon shall be delivered over to the designated state agency. The sale or transfer of firearms from one person to another is expressly forbidden, except in the case of a licensed dealer selling to an individual presenting a permit from the proper state authority. The possession of a machine gun is expressly forbidden.

7. The illegal possession of firearms shall constitute a felony punishable by a fine of not less than \$100 and not over \$5,000, and by imprisonment of not less than one year and not more than five years.

8. No license shall be granted to any person unless:

(a) He has been a citizen of the United States for at least three years and a resident of the state in which application is made for at least one year.

(b) He is accompanied at time of making application by at least one character witness, who shall be a reputable citizen of the state, and who shall have known the applicant for at least two years. No license shall be granted to any person who has been convicted of a felony in the United States or its possessions, or abroad except for political offense.

(c) He first has been finger-printed by the licensing authority.

9. In the event of loss or theft of a registered weapon the licensee shall give immediate notice to the nearest state authority. The procurement of another registered weapon shall be conditioned upon proof of unintentional and innocent loss of the original.

10. The finder of firearms of any description shall immediately surrender such weapons to the nearest police office, which shall issue to the finder an official receipt therefor.

11. No licensed dealer shall sell ammunition to anyone not adequately identified and not presenting his license to carry firearms and bearing the registered number of such weapon, and the ammunition sold shall be for such weapon only.

In summation the plan outlined above aims to keep out of the hands of the public all types of firearms, except where absolute necessity is shown. The registration of the weapon and the licensing of the possessor serves as a double check, while the open market in firearms is closed entirely. A good character vouched for by respectable citizens and an established local residence are essential prerequisites for a license. Local gangsters and criminals as well as those from other states or communities are thus barred. Local politics and favoritism are eliminated by making firearms control a state function. Possession of firearms by an unlicensed person or possession of unregistered weapons by a licensed person constitutes a felony for which severe penalties are prescribed.

Although this scheme may appear too drastic to many, and to involve too much red tape necessitating a huge control organization, it must be admitted that the exigencies of the crime situation call for drastic action. Furthermore, the difficulty of procuring licenses or weapons should of itself keep down the demand for firearms, thus requiring but a limited number of state agencies scattered throughout the state. To many the chief criticism of this plan will be that the difficulty of securing personal licenses or registered weapons will result in large numbers of persons as well as gangsters and gunmen surreptitiously and illegally acquiring firearms. The fact that mere possession is made a felony, however, should act as a real deterrent to non-criminals who cannot present valid reasons to secure a license for legal possession. Similarly, it is improbable that criminals, especially those known to the police, will continue their regular practice of always going armed with a pistol or gun when possession, even though no other criminal act is committed, is made such a serious crime. Otherwise arrest upon suspicion would be sufficient to betray the illegally armed criminal, and to send him on his way to the penitentiary. It might well be that the criminal classes would turn to other types of weapons but, even so, none possess as deadly a record as firearms.

In conclusion, it must be admitted that effective state control of firearms will in final analysis depend upon the stringency with which licenses are granted, whether the above plan or any other is followed. Another conditioning factor is the cooperativeness of neighboring states, especially if they do not possess similar restrictive legislation. The fact that state legislative bodies are prone to react differently leads directly to the possibility of making this program national in scope and placing it in the hands of Federal authority,

with state agency delegated to carry out the detail work. Such a scheme no doubt would necessitate a constitutional amendment, which, considering the tempo of the American people toward gangsters, racketeers, and gunmen of every description, would not seem difficult of achievement.

Strict regulation over the manufacture and sale, as well as the possession of firearms, would constitute the best insurance policy the public could secure against the wanton destruction of human life by gangsters and criminals of divers types. Likewise it would save some three thousand lives accidentally snuffed out each year as a result of the careless handling of firearms, and no doubt would prevent a certain amount of self-destruction if the principal means became extremely difficult to secure. The premium which would be exacted of the vast majority of us—self-denial of the possession of firearms—is one few of us ever exercised or even expect to exercise, and consequently would bear very lightly upon our shoulders, while the ensuing security would be of the greatest social benefit.