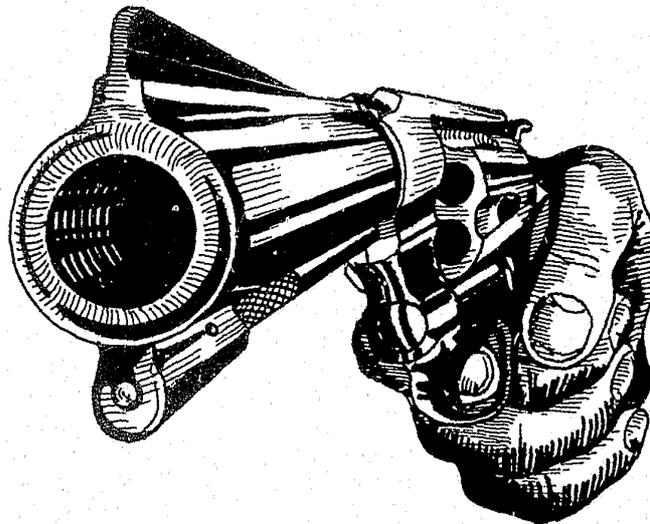


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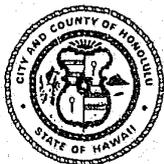
Honolulu County

# GUN CONTROL

A REPORT ON A COUNTY PRIORITY



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LAW ENFORCEMENT PLANNING OFFICE  
OFFICE OF HUMAN RESOURCES  
CITY AND COUNTY OF HONOLULU

FRANK F. FASI, Mayor

OFFICE OF THE MAYOR  
**CITY AND COUNTY OF HONOLULU**

HONOLULU, HAWAII 96813 • AREA CODE 808 • 533-7561

FRANK F. FASI  
MAYOR



In my statement, Issues, Goals and Objectives for the Seventies and Beyond, I listed the elimination of conditions which induce socially aberrant behavior and the reduction of crime and lawlessness as two objectives of this Administration. This document recommends banning private ownership of handguns as one method of bringing these two objectives closer to our reach.

It has always been my personal philosophy that handguns should be at least as strictly controlled as dynamite, and certainly as hard to obtain as a driver's license.

The evidence presented herein clearly shows the damaging impact of guns on our society, both in the City and County of Honolulu and in the nation at large.

It is the policy of this Administration, as well as the City Council, to urge strict gun control legislation. I am in support of the desire to reduce the number of handguns in private possession in the City and County of Honolulu.

This document is offered in the hopes that our citizens and our legislators will see the need and meet it.

A handwritten signature in cursive script, reading "Frank F. Fasi".

FRANK F. FASI, Mayor  
City and County of Honolulu

GUN CONTROL

A Report on a County Priority

by

JOHN W. MCKAY

Law Enforcement Planning Office  
Office of Human Resources  
City and County of Honolulu

Gun Control  
A Report on a County Priority

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ERRATA

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1.	"insurer"	instead of	"insuror"
5.	"murder"	" "	"mureder"
6.	"irreversible"	" "	"irreversable"
6.	"12.38%	" "	"12 38%"
8.	"seventy-three	" "	"sewnty-three"
9.	"causal"	" "	"casual"
31.	"gun powder"	" "	"giant powd..."
31.	"penalty"	" "	"panalty"
32.	"sidewalk"	" "	"sidewal"
33.	"ensued"	" "	"insued"
34.	"reduction"	" "	"recudition"

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PREFACE

The coordination and compilation of a document of this nature would have been a vastly more complicated task without the assistance of those who opened their files and made their research available. Others took the time to comment and assist in various ways.

It is impossible to single out individually everyone who contributed to this endeavor. However, special thanks must go to Mr. Donald Moore of the Hawaii Council for Crime and Delinquency; Mr. A. A. Bud Smyser, Editor of the Honolulu Star Bulletin; Chief Francis Keala, Assistant Chief Eugene Fletcher, Graphic Artist Jim Severson, and the men and women of the Research and Development Division of the Honolulu Police Department; Mr. Barry Chung, Prosecuting Attorney of the City and County of Honolulu; Mrs. Mae N. Won of the Department of the Medical Examiner; Mr. Gary Doi and Mrs. June L. Davis of the Law Enforcement Planning Office; and the Criminal Justice Project personnel of the National League of Cities.

The reader should be cautioned that the conclusions and recommendations do not necessarily reflect the opinions of those mentioned. Rather, their reflections on the topic of gun control have been helpful in defining and refining various points, and in some instances in eliminating others altogether.

## INTRODUCTION

The Law Enforcement Planning Office, Office of Human Resources, City and County of Honolulu is funded jointly under the provisions of the Crime Control Act of 1973 by the Federal, State and City and County governments. One of its functions is to conduct special research on specific crimes and other law enforcement related topics. In keeping with this function, various specific crimes are analysed and projects developed for their control and reduction. However, the number of crimes which can be researched in this way is limited due to staff time. Thus, selection of the crimes to be studied must be made in a priority sequence. The crimes of Murder, Assault, Robbery and Rape were then chosen for consideration.

A quick review of the crimes of murder and assault lead to an early determination that Federal funds could do little to decrease these specific types of offenses. However, it was felt that stricter gun control laws might be able to effect a rate reduction. Further investigation showed that weapons have an extremely damaging impact upon the fabric of our society; and gun control laws have a beneficial effect upon the communities they serve. As documented in the following pages, we found that handguns are the favorite weapon of criminals, and used in the majority of firearm offenses both nationally and in Honolulu.

We have not pretended to accumulate all the statistical data which could be culled from the Honolulu Police Department records. A lack of time and staff have precluded this. However, we have documented fairly conclusively the types of crimes in which handguns are used on both a national and local basis. By so doing we find that Hawaii, which is considered by many to have strong gun control laws, still suffers from many gun offenses; and worse still, the number of offenses is growing each year.

Our methodology was to gather as much data on the use of weapons in our society as possible, on both the national and local level. This presentation gives figures on firearms used in murder and other crime categories. They include assault, robbery, rape and killing law enforcement officers. In another context, guns are a social problem, not simply a law enforcement or criminal problem and we have presented statistics on the use of firearms in both suicides and accidental deaths.

Ideally, strong gun control legislation, which would incorporate the banning of private ownership of handguns except in specifically approved cases; licensing of all rifles and shotguns; mandatory penalties for usage of a firearm in the commission of a crime; and other provisions should be enacted on a national scale by the Federal government. However, long years of attempting to do this have resulted in very little constructive legislation. Since strong gun control laws on a state basis do have an impact on the total crime rate, and especially crimes against persons,

regardless of the laws in adjacent states, we recommend the enactment of model legislation by the State of Hawaii. If this can not be accomplished, then we recommend that enabling legislation which will allow the individual counties to act should be passed.

Banning, or outlawing, private ownership or possession of handguns is our first recommendation. However, if this cannot be accomplished, there are alternative actions which can be taken. The primary need is to reduce the number of firearms, and especially handguns, in civilian hands. This goal can be accomplished in a variety of ways. We have therefore, presented two alternatives which could be pursued.

The fact which we found most impressive in conducting this study was not the percentage of crimes committed with guns nor other figures relative to their impact on society. But, rather, the fact that having known the impact of firearms on society for many years, we do not have the strict controls which this impact certainly seems to mandate.

GLOSSARY

Aggravated Assault: an unlawful violent attack upon another person with the intent to do harm

Firearm: a weapon from which a shot is discharged by an explosion of gunpowder, such as a cannon, pistol or rifle

Gun: a portable firearm, such as a pistol, rifle or shotgun

Handgun: a firearm held and fired with one hand

Homicide: a killing of one human being by another

Murder: the crime of unlawfully killing a person

Personal Weapon: hands, feet, elbows, or other parts of the body used to inflict harm

Pistol: a short firearm intended to be aimed and fired with one hand

Rifle: a firearm with a grooved barrel intended for being fired from the shoulder

Shotgun: a firearm with a smooth barrel used to fire small shot a short range

THE IMPACT OF GUNS ON SOCIETY

## THE IMPACT OF GUNS ON SOCIETY

Any study relative to gun control must necessarily explore the impact which guns have on society. If the impact be positive, then it follows that widespread ownership and availability of weapons should be encouraged. Conversely, if the impact is found to be negative, the government, in its role as insurer of the general welfare and public safety, must try to take steps to limit ownership and availability of weapons.

Making the negative/positive determination is not difficult. However, agreement on the manner and mode of action, based upon the determination rarely has been unanimous in this country.

### The Number of Guns

It is not easy to reach a conclusion on the number of guns in our society.

Estimates on the number of firearms possessed by American citizens vary according to the source. The National Commission on the Causes and Prevention of Violence estimated that in 1968 there were 90 million firearms in civilian hands in the United States: 24 million were handguns, 35 million rifles and 31 million shotguns.(1) Senator Edward M. Kennedy said on June 27, 1972, that firearms "according to some estimates outnumber our population of 210 million people."(2)

The number of handguns in civilian hands also varies and is based upon estimates rather than hard facts. Former Deputy Attorney General Donald G. Santarelli (now Administrator of the Law Enforcement Assistance Administration) testified in the 1971 hearings on S. 2507 that the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service estimated in 1969 that 700,000 handguns would be manufactured domestically in 1969 and 1 million would be manufactured in 1970.(3) Figures on foreign imports of handguns are more concrete. The U. S. Treasury provided these figures on handgun imports: Fiscal 1970 - 417,724; Fiscal 1971 - 301,417; Fiscal 1972 - 462, 524. In addition to these imports, gun parts sufficient to assemble 568,500 handguns were imported in calendar year 1969, 872,400 in calendar year 1970, 1,411,611 in calendar year 1971 and 1,220,200 in calendar year 1972.(4)

In September 1971, Major Harold Falk of the Honolulu Police Department estimated there were 140,000 guns registered on Oahu, with another 60,000 unregistered rifles and shotguns on the island.(5) No estimates are available on the number of unregistered pistols on Oahu.

To determine exactly how weapons affect us, an analysis on guns used in the commission of crimes was undertaken. The findings are presented by crime classification; Murder, Assault, Robbery, Rape, and Law Enforcement Officers killed. In addition, suicide and gun accidents were also examined.

Murder

In its Uniform Crime Reports, the Federal Bureau of Investigation (FBI) reported in 1970 an increase of 8 percent in the murder rate over 1969; a 9 percent increase in 1971 over 1970 and a 5 percent increase in 1972 over 1971. The startling fact, however, emerges upon an examination of the nature of this particular crime. The FBI stated in 1970, that "police are powerless to prevent a large number of these crimes, which is made readily apparent from the circumstances or motives which surround criminal homicide. The significant fact emerges that most murders are committed by relatives of the victim or persons acquainted with the victim. It follows, therefore, that criminal homicide is, to a major extent, a national social problem beyond police prevention." In 1970, killings within the family made up about one-fourth of all murders. Over one-half of these involved spouse killing spouse and the remainder involved other family killings such as parents killing children and other in-family relationship type murders. Felony murder (defined as those killings resulting from robberies, sex motives, gangland slayings, and other felonious killings) comprised 29 percent of the total murder offenses in 1970, up from 27 percent in 1969 and 25 percent known or suspected felonious homicides in 1968. The following table demonstrates by geographic region the percentage of murder by type of circumstance in 1970.

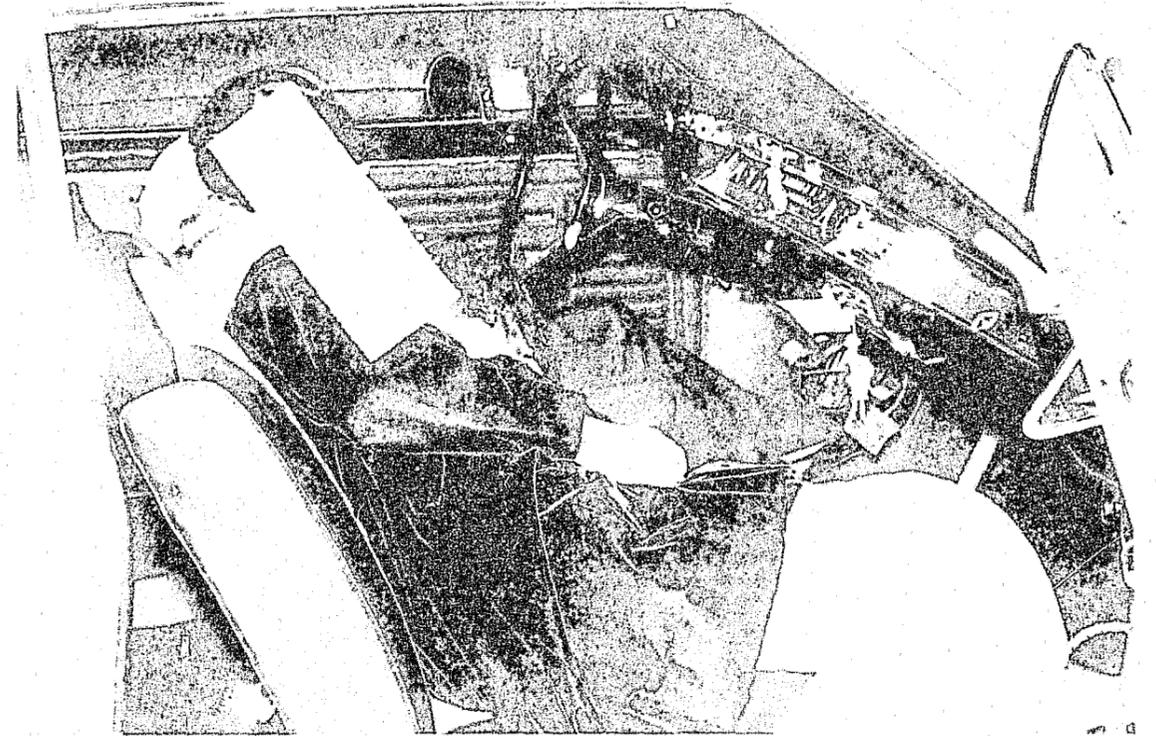
MURDER BY CIRCUMSTANCE  
UNITED STATES 1970  
(Percent Distribution)

Region	Total	Spouse Killing Spouse	Parent Killing Child	Other Family Killings	Romantic Triangle & Lovers Quarrels	Other Arguments	Known Felony Type	Suspected Felony Type
Northeastern States	100.0	9.6	3.7	6.1	7.9	38.4	25.4	8.9
North Central States	100.0	11.3	3.0	8.9	5.0	39.5	22.4	9.9
Southern States	100.0	13.8	2.2	8.8	8.4	46.0	13.9	6.9
Western States	100.0	12.5	4.9	7.0	6.4	32.2	28.0	9.0
Total	100.0	12.1	3.1	8.1	7.1	40.8	20.4	8.4

Source: Uniform Crime Reports, FBI, 1970.

Firearms are the predominant weapon used in murder. For the year 1970, as in 1968 and 1969, 65 percent of the homicide victims were killed through the use of a firearm. Handguns were the predominant firearm used, with 52 percent of the murders resulting from the use of handguns, 8 percent from the use of shotguns, and 5 percent of the murder victims died from rifle wounds. Cutting or stabbing weapons were used in 19 percent of the murders, other weapons (blunt objects such as hammers and clubs, poison, arson, explosives, drowning, etc.) in 8 percent, and in the remaining 8 percent of the murders, personal weapons such as hands, fists and feet were used.

DOUBLE MURDER



Shot by husband's ex-wife

MURDER, TYPE OF WEAPON USED  
 UNITED STATES 1970  
 (Percent Distribution)

Region	Total all Weapons used	Fire-Arms	Knife or other cutting Instrument	Other Weapon; club, poison, etc.	Personal Weapons
Northeastern States	100.0	49.9	28.3	9.9	11.9
North Central States	100.0	70.6	15.6	5.9	7.9
Southern States	100.0	73.1	16.3	5.6	5.0
Western States	100.0	56.6	18.4	13.4	11.6
Total	100.0	65.4	18.9	7.6	8.1

Source: *Uniform Crime Reports, FBI, 1970*

The litany of the destructiveness of firearms, and in particular handguns continues in 1971 and 1972.

MURDER, TYPE OF WEAPON USED  
 UNITED STATES 1971, 1972  
 (Percent Distribution)

Weapon	1971	1972
Handgun	51%	54%
Rifle	6%	5%
Shotgun	8%	7%
Cut and Stabbing	20%	19%
Other Weapon	6%	7%
Personal Weapon	9%	8%

Source: *Uniform Crime Report, FBI, 1972*

In the City and County of Honolulu statistics show a lesser percentage of firearm homicides and murders than nationally. However, the number still constitutes 53.2% of the homicides committed during the five year period studied.

HOMICIDE IN HONOLULU BY WEAPON USED  
 Fiscal Year 1968-69 - 1972-73

Weapon/Means	68-69	69-70	70-71	71-72	72-73	Total	% of Total
Gunshot	14	16	21	18	20	89	53.2
Drowning	1				1	2	1.2
Stabbings		8	7			15	9.0
Strangled		2				2	1.2
Assaults or Beatings		6	3			9	5.4
Others	5		3	18	24	50	29.9
Total	20	32	34	36	45	167	100.0

Source: *Department of the Medical Examiner, City and County of Honolulu*

MURDER, TYPE OF WEAPON USED  
 UNITED STATES 1970  
 (Percent Distribution)

Region	Total all Weapons used	Fire-Arms	Knife or other cutting Instrument	Other Weapon; club, poison, etc.	Personal Weapons
Northeastern States	100.0	49.9	28.3	9.9	11.9
North Central States	100.0	70.6	15.6	5.9	7.9
Southern States	100.0	73.1	16.3	5.6	5.0
Western States	100.0	56.6	18.4	13.4	11.6
Total	100.0	65.4	18.9	7.6	8.1

Source: *Uniform Crime Reports, FBI, 1970*

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Source: *Uniform Crime Report, FBI, 1972*

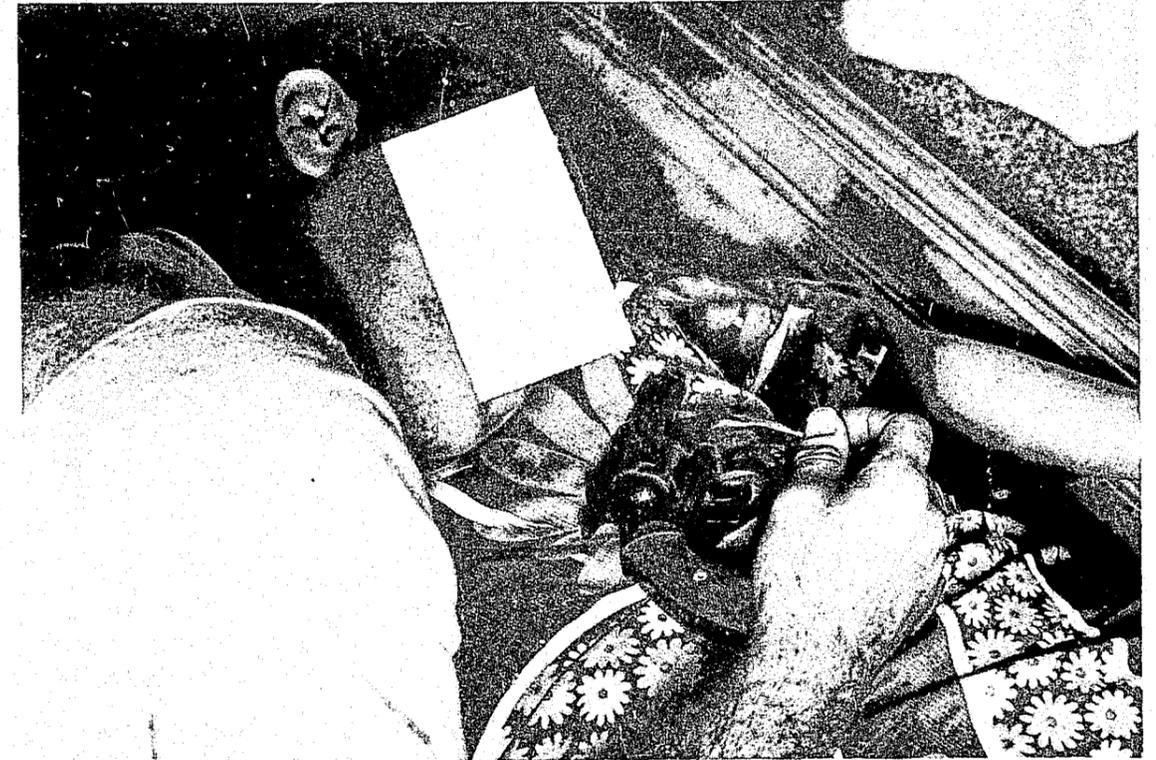
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Drowning	1				1	2	1.2
Stabbings		8	7			15	9.0
Strangled		2				2	1.2
Assaults or Beatings		6	3			9	5.4
Others	5		3	18	24	50	29.9
Total	20	32	34	36	45	167	100.0

Source: *Department of the Medical Examiner, City and County of Honolulu*

MURDER/SUICIDE



Killed by husband

Firearms account for 48.7% of all murders reported in the City and County of Honolulu for a 23 month period surveyed, January 1, 1972 to November 30, 1973, with handguns constituting 57.8% of the firearm murders or 28.2% of the total.

MURDER, TYPE OF WEAPON USED  
January 1, 1972 - November 30, 1973  
City and County of Honolulu

	No. of Offenses	Handguns	Rifle	Shotgun	Knife	Other	Unknown
Total	78	22	5	5	14	20	12*
% of Total	100.0	28.2	6.4	6.4	17.9	25.6	15.3

Source: Research and Development Division, Honolulu Police Department

\*In six of the 12 murders, the type of weapon used was a firearm; classification as to handgun, rifle or shotgun was not possible due to various factors.

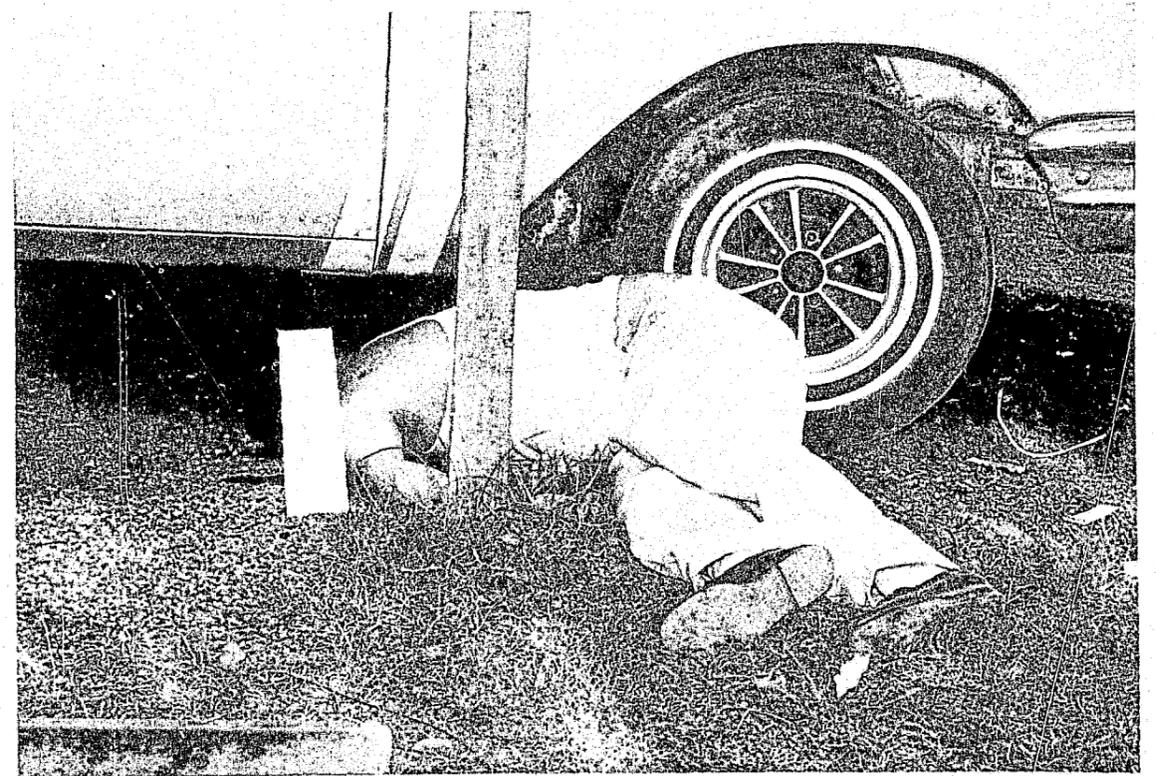
Various opponents to strict gun control legislation have questioned the validity of assuming a correlation between the ready availability of handguns and long guns and the murder rate in this Country and on Oahu. The impact of strict gun control laws in other countries can be used to illustrate the correlation.

It is illegal for any resident in Japan to own a handgun. Only the armed forces, the police, ballistics researchers, and sporting marksmen may have pistols; and the use of these is strictly regulated. Police officials in Tokyo believe that the absence of handguns is particularly important in keeping the murder and robbery rate down.

In 1970 three people were murdered with handguns in Tokyo, the largest city in the world with a population close to 11½ million. One was killed by a gangster, another by an ordinary citizen and a third by a juvenile. (6)

The murder rates by gunfire in our country are incredibly higher than the rates in other advanced nations. Australia, had 57 gun murders among its 11 million people in 1965. Here in America the rate is seven times higher. Canada had 98 murders among 19,604,000 people in 1966, one seventh the rate of its neighbor to the South. England and Wales had 27 murders by guns in 1966 among 54 and one half million people, while Houston, Texas, alone had 150 gun murders among its one and a half million citizens. That same year Sweden experienced 14 murders by gunfire. Its murder rate by guns is one-seventeenth as high as ours. (7)

MURDER



Shot by brother-in-law

Within the United States, tight state gun control laws keep down the gun murder rate, and the murder rate per 100,000 population. In states with effective laws, 34% of all murders are committed with guns. In states without, 67% of all murders are committed with guns. (8)

COMPARATIVE MURDER RATES  
(Per 100,000 Population)

Strong Law States		Weak Law States	
Rhode Island	1.3	Nevada	13.5
Massachusetts	3.7	Louisiana	13.2
New Jersey	6.5	Texas	12.3
Pennsylvania	6.0	Mississippi	15.4

Source: *Uniform Crime Reports, Federal Bureau of Investigation - 1972*

It is interesting to note that the absence of an effective Federal law deprives citizens of "strong law states" of safety and security, as demonstrated by the case of Massachusetts, where 87% of the guns taken from criminals had been purchased outside the state. (9) Yet even with this fact, the murder rate is demonstrably lower for strong law states than for weak law states.

If murder was the only major crime committed with guns in Honolulu, the actual number of offenses might warrant stricter controls. Murder in 1972 accounted for only 46 out of 32,406 Part I crimes and 63,532 total crimes, or 0.14% and 0.07% of the crimes committed in Honolulu respectively. Murder, while the most offensive and ultimate crime, still plays a relatively small role, percentagewise, of the crime picture, and could be insignificant were it not for the irreversible nature of the crime.

Other crimes against persons are increasing nationally and on Oahu. An analysis of these crimes shows the true nature of the impact of guns in our society.

Aggravated Assault

Nationally most aggravated assaults occur within the family unit, and among neighbors or acquaintances. The victim-offender relationship, as well as the nature of the attack makes this crime similar to murder. In 1972, over 25 percent of the serious assaults were committed with the use of a firearm. A knife or other cutting instrument was used in over 26 percent of the assaults, 23 percent were committed with blunt objects or other dangerous weapons, and over 25 percent with personal weapons, such as hands, fists, and feet. A comparison of the weapons used to commit assault from 1967 to 1972 indicates that assaults with firearms have increased 85 percent. Assaults with a knife or other cutting instrument have risen 23 percent. Assaults where blunt objects or other dangerous weapons are used increased 58 percent, and those assaults through use of personal weapons have climbed 62 percent. Aggravated assault differs from

from homicide only in its outcome--the victim survives. Although the knife is still the primary weapon used in aggravated assault, the share of gun attacks is increasing and nearly one in four aggravated assaults involve firearms. The table which follows demonstrates the regional experience of aggravated assault in 1972 by type of weapon used.

AGGRAVATED ASSAULT, TYPE OF WEAPON USED  
 UNITED STATES 1972  
 (Percent Distribution)

Region	Total all Weapons used	Fire-arms	Knife or other cutting Instrument	Other Weapon; club, poison, etc.	Personal Weapons
Northeastern States	100.0	19.5	31.0	29.0	20.5
North Central States	100.0	27.9	25.3	21.6	25.2
Southern States	100.0	28.5	25.9	19.0	26.6
Western States	100.0	23.9	23.1	24.5	28.5
Total	100.0	25.3	26.3	23.0	25.4

Source: *Uniform Crime Reports, Federal Bureau of Investigation, 1972*

In Honolulu the use of firearms in aggravated assaults has increased from 28 in 1964 to 97 in 1971.

The firearm is used in both assaults and murder. The significant fact emerges that the firearm is a much more deadly weapon than the knife.

In 1972, the F.B.I. reported a total of 110,588 assaults with firearms, of which 12,260 or 11.08% resulted in the death of the victim (murder). In the same year, 105,732 assaults with knives were reported with only 3,518 or 3.32% resulting in death. The death rate for persons assaulted with firearms is roughly three and one-half times higher than for those assaulted with knives.

ASSAULTS WITH FIREARMS AND KNIVES  
 UNITED STATES - 1972

	Murder	Assault	Total
Firearms	12,260 (11.08%)	98,328 (88.92%)	110,588 (100.0%)
Knife	3,518 ( 3.32%)	102,214 (96.68%)	105,732 (100.0%)

Source: *Law Enforcement Planning Office, City and County of Honolulu*

In the City and County of Honolulu a total of 113 assaults with firearms were reported, of which 14 resulted in death. This correlated well with national statistics, showing 12.38% of assaults with a firearm resulting in death. No statistics are available on the number of assaults with knives for this same period. However, from other statistical comparisons,

it can be assumed that the statistical relationship between Honolulu and the national figures will not show a great degree of variance.

ASSAULTS WITH FIREARMS  
City and County of Honolulu - 1972

	Murder	Assault	Total
Firearms	14(12.38%)	99(87.62%)	113

Source: Law Enforcement Planning Office, City and County of Honolulu

Robbery

Nationally, in 1972, 66.1% of all robberies were committed by armed offenders, versus 33.9% by other personal means such as mugging. The FBI reports that special surveys indicate that 63% of all armed robbery is committed with a firearm, with knives used in 24% and other instruments in 13% of the offenses. (10)

The full impact of this offense cannot be measured in dollar loss terms. Many of the victims also suffer grievous personal injury as a result of the attack. The psychological impact of these confrontations many times leaves the victim suspicious, distrustful and afraid to function and interact normally with his fellow citizens.

In the City and County of Honolulu firearms used in the commission of robberies climbed from 17 in 1964 to 300 in 1971. Pistols were used in 275 of the 300 armed robberies in 1971 and in 149 of the 165 in 1972.

For the twelve month period extending from December 1, 1972 to November 30, 1973, a total of 628 robberies were reported to the Honolulu Police Department. Of these, 37.73% (237) were committed with firearms. Other means most commonly used were physical force and knives.

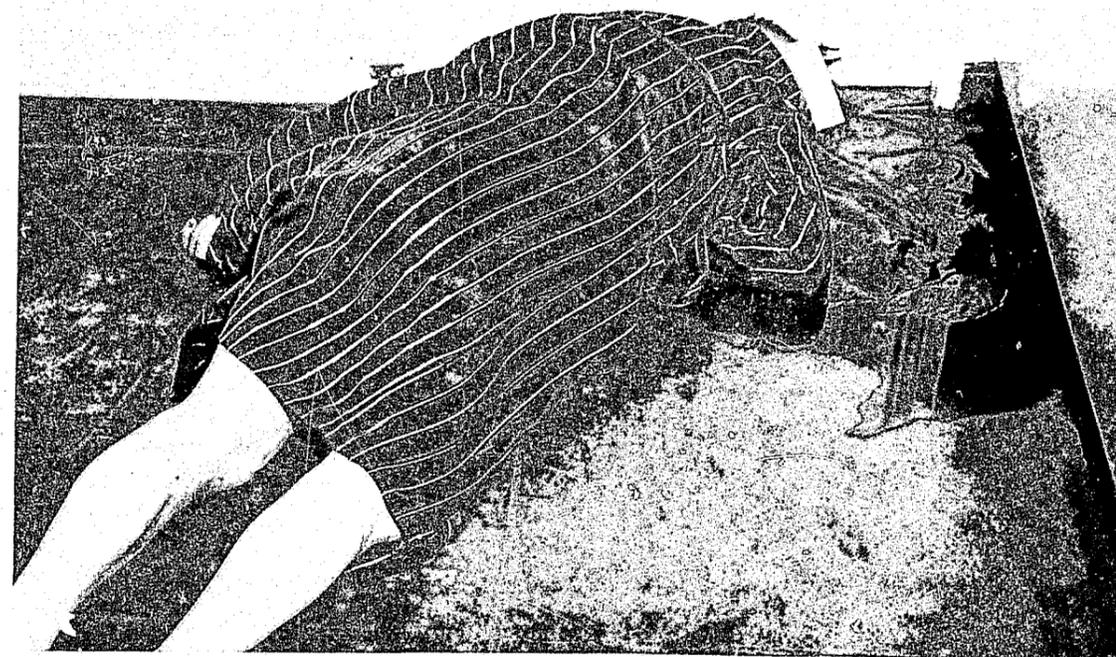
The following is a breakdown for the twelve months studied:

ROBBERY BY TYPE OF FORCE USED  
City and County of Honolulu

Month	Total No. of Robberies	Type of Force Used			
		Firearm	Physical	Knife	Other
Dec. 72	49	19	12	9	8
Jan. 73	47	16	15	7	9
Feb. 73	45	17	17	8	3
Mar. 73	52	19	12	11	10
Apr. 73	45	12	15	6	12
May 73	51	17	17	11	5
Jun. 73	43	15	10	11	5
Jul. 73	43	16	10	8	8
Aug. 73	58	23	17	9	9
Sep. 73	59	35	9	11	4
Oct. 73	79	28	24	11	16
Nov. 73	57	20	23	5	9
Total	628	237	181	107	98
% of Total		37.37%	28.22%	17.03%	15.60%

Source: Crime Information Bulletins, Honolulu Police Department

ROBBERY/MURDER



Shot by robbers

## Rape

National statistics on the use of firearms in the commission of rape offenses are lacking. An analysis of rapes committed in Honolulu during 15 months for which data was extracted shows that firearms were used in the commission of thirty out of the 188 offenses or 15.95% of the reported rapes.

### FIREARMS USED IN RAPE OFFENSES City and County of Honolulu

Month	Total No. of Rapes	Firearms Used
Nov. 1973	11	3
Aug. 1973	10	1
Jul. 1973	12	0
May 1973	20	4
Apr. 1973	16	3
Mar. 1973	9	3
Feb. 1973	6	1
Jan. 1973	13	3
Dec. 1972	17	2
Nov. 1972	11	0
Oct. 1972	10	1
Sep. 1972	11	2
Aug. 1972	18	0
Jun. 1972	13	3
May 1972	11	4
Total	188	30
Percent of Total	100.0	15.95

Source: *Crime Information Bulletins*, Honolulu Police Department

## Law Enforcement Officers Killed

A total of 112 local, county, and state law enforcement officers were killed due to felonious criminal action in America in 1972. In one hundred eight of the police killings in 1972 firearms were used. Of the deaths, 74 were committed through the use of handguns, 16 with rifles, and shotguns were used to kill 18 of the officers. Fifteen percent (or 17) of the officers slain had their own weapons used against them by the assailants. Two police-ment met death as a result of being assaulted with knives, while one officer was killed by a bomb. One officer was killed through the use of an automobile while attempting to arrest the offender.

During the period 1963-1972, firearms were used by felons to commit 96 percent of the police killings. Seventy-three percent of the weapons used were handguns. Specifically, of the 786 law enforcement officers slain by criminal action during this period, 572 were killed through use of handguns, 93 with shotguns, 86 with rifles, nine with knives, three with bombs, nine with personal weapons such as hands, fists, and feet, and 14 by other means such as clubs, automobiles, etc.

LAW ENFORCEMENT OFFICERS KILLED 1963-1972  
 UNITED STATES  
 (By type of weapon used)

Type of Weapon Used	1963-1972		1963-1967		1968-1972	
	Total No.	Percent	Number	Percent	Number	Percent
Handgun	572	72.8	218	73.2	354	72.5
Shotgun	93	11.8	36	12.1	57	11.7
Rifle	86	10.9	31	10.4	55	11.3
Total Firearms	751	95.5	285	95.6	466	95.5
Knife	9	1.1	2	.7	7	1.4
Bombs	3	.4			3	.6
Personal Weapons	9	1.1	5	1.7	4	.8
Other (clubs, etc.)	14	1.8	6	2.0	8	1.6
Total	786	100.0	298	100.0	488	100.0

Source: *Uniform Crime Reports, F. B. I. 1972*

In Honolulu only one law enforcement officer has been killed in the last five years as a result of felonious criminal assault. He was slain with a handgun while responding to a call for help at the scene of a domestic argument.

Suicide

Although suicide is not a criminal offense, it must be viewed as part of a social problem. Nearly one-half of the 20,000-a-year suicides in the nation are committed with firearms. While it is recognized that a person seriously intent on doing away with himself will find a method, the speed and certainty of results from the use of a gun leave little opportunity for intervention. "Also, the possibility that the presence of a gun is in some instances part of the casual chain that leads to an attempted suicide cannot be dismissed. With a depressed person, the knowledge of having a quick and effective way of ending his life might precipitate a suicide attempt on impulse."(11)

In the City and County of Honolulu, 21.6% of all suicides reported by the Department of the Medical Examiner were the result of gunshots.

SUICIDE IN HONOLULU BY MEANS USED (12)  
 Fiscal Year 1968-69 - Fiscal Year 1972-73

Means Used	68-69	69-70	70-71	71-72	72-73	Total	% of Total
Gunshot	13	13	15	15	12	68	21.6
Hanging	15	14	24	13	16	82	26.1
Poisoning	9	14	17	24	15	79	25.1
Drowning	2	1	2	2		7	2.2
Traffic		1	2			3	.9
Fire		1	3		1	5	1.5
Jumped from Heights			13			13	4.1
Others	10	7	6	21	11	55	17.5
Unknown					2	2	.6
Total	49	51	82	75	57	314	100.0

Source: *Department of the Medical Examiner, City and County of Honolulu*

SUICIDE



Shot self over wife's lover

The Medical Examiner points out that there has been a decline in the number of suicides in Honolulu since "the creation of a suicide prevention center in 1970." This would seem to show that in some cases suicide can be prevented through intervention by concerned parties. The finality of suicide attempts with guns, however, leaves little chance for intervention.

#### Accidents

No local statistics are available on the number of gun accidents in Honolulu. However, the National Safety Council counted 2,400 civilian deaths resulting from firearm accidents in 1971, with an estimated 8 to 10 times that number seriously wounded nationwide. The tragic fact about gun accidents is that most victims are young. The average age of those killed accidentally by firearms in 1967 was 24, compared with 41 for all accident victims. In an analysis prepared for the National Commission on the Causes and Prevention of Violence for the year 1966, statistics indicated that two-fifths of the victims of fatal gun accidents were under twenty, with three fifths of the accidents occurring in the home. (13)

#### The Nature of Handguns

The opponents to limiting access to handguns most often present two arguments: 1) that it will damage the sports of hunting and marksmanship; 2) that people kill people, not guns, and that a person should have the right to self defense. A close examination of these premises should be undertaken.

First, the model legislation presented herein, and all others which have been examined, make exceptions for the licensing of target and marksmanship clubs. Thus, little damage would be inflicted upon target shooting and marksmanship sports. As to hunting, the City Council of Honolulu stated in Resolution No. 147, "the handgun has very little value as a sports weapon..." Hunting with a handgun is basically an unknown sport. Handguns are designed with the primary purpose of killing and maiming other human beings.

Secondly, in almost every case the sale of a handgun is premised upon the notion that a handgun will provide self defense to its owner. Yet the handgun does not provide any better measure of self defense than does a baseball bat. But it certainly adds immeasurably to the possibility of a tragic homicide, accident, suicide, or assault being performed upon a family member or friend.

The National Council on Crime and Delinquency puts it this way:

"In our urbanized society the gun is rarely an effective means of protecting the home against either the burglar or the robber: the former avoids confrontation, the latter confronts too swiftly. Possession of a gun undoubtedly provides a measure of comfort to a great many Americans, but, for the homeowner, this comfort is largely an illusion bought at the high price of increased accidents, homicides and more widespread illegal use of guns." Senator Tunney noted Senate Report No. 92-1004 on S. 2507, that "only 2 percent of home robberies and 1 percent of home burglaries result in the robber or burglar being shot by the occupant."

Sheriff Peter J. Pitchess of Los Angeles County notes that public safety does not permit the civilian possession of machine guns, flame throwers, or similar weapons; neither for the same reason can it any longer tolerate the private possession of handguns.

He further states: "The handguns, by far the principal weapon of gun misuse, and long since proven void of any significant social value must be formally and systematically eliminated from the possession of all except the military and law enforcement personnel."

Perhaps the major argument of those who oppose gun control, is that people, not guns, are responsible for murders, suicides, robberies and accidental deaths--and that guns are only the instrument. If guns were not available, it is argued, other methods of committing the same crimes would be found. This position ignores human nature and the deadliness of guns.

Of course, it is people, and not guns that commit crime. But what enables people to commit crime? If you wanted to rob a bank and had only a knife, you might hesitate. A gun emboldens you, suppose your victim is bigger than you, guns more than equalize. With a gun you are eight feet tall. Many armed robberies are inspired by the sheer sense of power arising from the possession of a pistol. No other weapon has such an effect. A pistol can be concealed, directed accurately and used with sudden and terrifying and deadly effect. Our survey indicates that roughly one person in ten who is assaulted with a gun dies, compared to one in thirty where a knife is the weapon.

Summary

The major tragedy of the impact of guns on our society must be measured in not only statistics but in the fear of our society which the facts instill in our citizens. Henry Ruth, former Director of the Criminal Justice Coordinating Council of New York City has stated that the fear of crime is as damaging to the fabric of American society as is crime itself.

No other industrialized country in the world allows the amount of freedom to own and possess firearms as does the United States.

In Honolulu we are confronted with a steady and growing increase in the number of firearms used for the commission of crimes. By far the most deadly and favorite weapon is the handgun.

TYPE OF FIREARM AND OFFENSE: 1971-1972  
City and County of Honolulu

Offense	1971 Fire- arm Total	Pistol	Rifle	Shotgun	1972 Fire- arm Total	Pistol	Rifle	Shotgun
Homicide	9	8	1	0	14	13	1	0
Rape	8	8	0	0	10	8	2	0
Robbery	300	275	16	9	165	149	9	7
Aggravated Assault	90	69	12	9	99	73	19	7
Non-Aggravated Assault	7	6	1	0	19	16	2	1
<b>Total</b>	<b>414</b>	<b>366</b>	<b>30</b>	<b>18</b>	<b>307</b>	<b>259</b>	<b>33</b>	<b>15</b>
% of Total	100	88.4	7.2	4.3	100	84.3	10.7	4.8

Source: Research and Development Division, Honolulu Police Department

INCREASE IN USE OF FIREARMS: 1964-1972  
City and County of Honolulu

	1964	1965	1966	1967	1968	1969	1970	1971	1972
Murder and Non-negligent Homicide	6	8	4	10	13	15	15	9	14
Aggravated Assaults and Battery	28	29	22	40	43	45	79	97	118
Robbery	17	29	59	55	72	98	213	300	165
Totals	51	66	85	105	128	158	307	406	297

Source: Research and Development Division, Honolulu Police Department

Where there is an increase in gun ownership, there is an increase in felonious criminal activity in which firearms are used. "Data from three sources document that the proportion of gun use in violence rises and falls with gun ownership. Statistics from Detroit show that firearms violence increased after an increase in handgun acquisitions. Regional comparisons show that the percentage of gun use in violent attacks parallels rates of gun ownership. A study of guns used in homicides, robberies, and assaults in eight major cities shows that cities with a high proportion of gun use in one crime tend to have high proportions of gun use in the other crimes."(14)

The concern that this fact raises Honolulu becomes all the more urgent when the trends in gun registration on Oahu are viewed.

TRENDS IN GUN REGISTRATION: 1964-1972  
City and County of Honolulu

	1964	1965	1966	1967	1968	1969	1970	1971	1972
Guns Registered	7375	5804	6186	6324	9567	7948	8471	7380	14131
Gun Permits Issued (for purchase)	1952	1972	1930	2120	2312	1944	2179	3012	3445

Source: Honolulu Police Department Statistical Reports 1964-1972

Weapons recovered by the Honolulu Police Department give another indication of the preferred use of handguns over other firearms by criminal offenders. Sixty-three percent of the weapons recovered by the Police Department for a two month period surveyed were handguns.

FIREARMS SURVEY: WEAPONS RECOVERED BY POLICE  
City and County of Honolulu

Month	Handgun	Rifle	Shotgun	Total
November 1973	36	4	4	44
December 1973	29	16	13	58
Subtotals	65	20	17	102
% of Total	63.7	19.6	16.6	100.0

Source: Research and Development Division, Honolulu Police Department

In Honolulu, 53.2% of the Homicides reported between July 1, 1968 and June 30, 1973 resulted from gunshots. Firearms accounted for 48.7% of the murders between January 1, 1972 and November 30, 1973, with handguns accounting for 28.2% of the total.

The use of firearms in aggravated assaults has increased from 28 in 1964 to 97 in 1971, an increase of over 200%. Handguns account for 275 of the 300 armed robberies committed in Honolulu in 1971; up from 17 in 1964. Firearms account for 37.73% of all robberies. In addition, in 15.95% of the reported rapes firearms are used.

The one lawenforcement officer killed by felonious criminal assault in Honolulu in the last five years was murdered by a handgun.

Gunshot accounts for 21.6% of the suicide cases in Honolulu reported between July 1, 1968 and June 30, 1973.

We have found that firearms ownership leads to an increase in criminal activity in a community. In Honolulu firearm ownership is increasing; with gun registration in 1972 almost doubling that of 1971. The Honolulu Police Department reports an increase in criminal activity for 1973 over 1972. The favorite weapon of the criminal is the handgun. However, it offers next to no protection to the homeowner as a weapon of self defense.

Given the nature of guns in our society, and the destructive results arising from their widespread ownership, it is strongly urged that new restrictions on the private possession of handguns, and registration and licensing requirements for rifles and shotguns be imposed. Los Angeles Sheriff Peter Pitchess states that, "the safety of the public -- the insurance of domestic tranquility--can not tolerate anything less."

FOOTNOTES

- (1) U. S. National Commission on the Causes and Prevention of Violence, Firearms and Violence in the United States, Washington, D. C., U. S. Government Printing Office, 1970, pp. xi-xv.
- (2) Editorial Research Reports, Gun Control: Recurrent Issue, Washington, D. C., Congressional Quarterly, Inc., July 19, 1972, Vol. II, No. 3.
- (3) Congressional Quarterly, Gun Controls: 1973 Effort will Renew Old Conflict, Washington, D. C. Congressional Quarterly Inc., March 6, 1973 p. 4.
- (4) *ibid*
- (5) Honolulu Star Bulletin, September 9, 1971.
- (6) New York Times, Oct. 3, 1971, p. 6.
- (7) Crime in America, Ramsey Clark, pp. 101-114
- (8) To Control Handgun Crime and Handgun Violence, Abner J. Mikva, In the House of Representatives, Washington, D. C., March 3, 1970.
- (9) *ibid*
- (10) Uniform Crime Reports, FBI, 1972, p. 15.
- (11) Firearms and Violence in American Life, Staff Report to the National Commission on the Causes and Prevention of Violence, 1969, p. 36.
- (12) Statistics do not include suspected suicides reported to the Department of the Medical Examiner.
- (13) Editorial Research Reports, Gun Control: Recurrent Issue, Vol, II, No. 3, July 19, 1972, p. 546.  
\*The Handgun - A Deadly Anachronism, Position paper for the National Advisory Commission on Criminal Justice Standards and Goals, Peter J. Pitchess, 1972.
- (14) Fact sheet in gun Control, National Council on Crime and Delinquency, Paramus, New Jersey, July 21, 1972.

SECTION II:  
EXISTING FEDERAL AND STATE LAWS

FEDERAL FIREARMS LAWS AND REGULATIONS

SUMMARY

Note: This Digest gives only the basic provisions of the Federal laws and regulations. Procedural details, exceptions and qualifications, definitions and related matters may be found in the text of the laws and regulations, or by inquiry to the governmental agency charged with their administration.

GUN CONTROL ACT OF 1968. Administered by the Alcohol, Tobacco and Firearms Division, Internal Revenue Service, U. S. Treasury Department, this law, among other things, (a) prohibits, with certain exceptions, the transportation, shipment or receipt of firearms or ammunition in interstate or foreign commerce by other than federal firearms licensees (over-the-counter sale of ammunition to non-residents excepted); (b) requires the licensing of collectors who acquire or dispose of firearms or ammunition as curios or relics in interstate or foreign commerce; (d) requires a permit from the Alcohol, Tobacco and Firearms Tax Division for the importation of firearms or ammunition (importation of military surplus firearms prohibited); (e) prohibits over-the-counter sales of rifles or shotguns, or rifle or shotgun ammunition, to persons under 18, and handguns, or handgun ammunition, to persons under 21; (f) permits sale of rifles and shotguns to non-residents who are engaged in hunting or competition and whose firearms have been lost or stolen or have become inoperative; (h) prohibits non-licensees from selling, trading, giving, transporting or delivering firearms to non-resident non-licensees; (i) permits the lending or renting of firearms to non-residents for temporary use for lawful sporting purposes; (j) prohibits shipment, transportation or receipt of firearms in interstate or foreign commerce by fugitives from justice, unlawful users of narcotics or drugs, adjudicated or committed mental defectives, persons under indictment or convicted of a crime punishable by imprisonment for more than one year; (k) prohibits sale or delivery of firearms or ammunition by licensees in violation of state or local law; (l) requires that all firearms imported or manufactured on or after December 16, 1968, have serial numbers; (m) prohibits the shipment, transportation or receipt of stolen firearms or ammunition, or firearms from which the serial number has been removed, obliterated or altered.

NATIONAL FIREARMS ACT OF 1934, as amended (1968). Administered by the Alcohol, Tobacco and Firearms Division, Internal Revenue Service, this law imposes a tax and registration on the making or transfer of (a) fully automatic firearms; (b) all rifles with barrels less than 16 inches in length and shotguns with barrels less than 18 inches in length; (c) firearms made from a rifle or shotgun and having an overall length of less than 26 inches; (d) handguns with shoulder stocks; (e) certain other concealable firearms except pistols or revolvers; (f) silencers or mufflers; (g) destructive devices (bombs, grenades, rockets, missiles, mines and weapons having a barrel with a bore of one-half inch or more except shotguns, or rifles used for sporting purposes, or antiques). Manufacturers or importers of, and dealers in, the foregoing firearms or destructive devices must pay an additional occupational tax.

This Act does not apply to any firearms not using fixed cartridge or fixed shot-shell ammunition, and manufactured in or before 1898, and also to any firearm manufactured in or before 1898 for which ammunition is no longer made in the United States and is not readily available in the ordinary channels of commercial trade.

An unserviceable firearm may be transferred as a curio or ornament without payment of the transfer tax, but registration is required. (An unserviceable firearm is defined as "a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition".)

No firearm or destructive device as defined in the Act may be imported or brought into the United States or any territory under its control or jurisdiction unless the firearm or device is being imported or brought in (a) for the use of a Federal, State or local government agency; (b) for scientific or research purposes; or (c) for testing or use as a model by a registered manufacturer or solely for use as a sample by a registered importer or dealer.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968 (TITLE VII, as amended). Administered by the Alcohol, Tobacco and Firearms Division, Internal Revenue Service, Title VII prohibits the transportation, possession or receipt of any firearm in interstate or foreign commerce by convicted felons, persons discharged from the Armed Forces under dishonorable conditions, adjudicated mental incompetents, aliens illegally in the United States and former citizens who have renounced their citizenship.

CIVIL DISOBEDIENCE ACT OF 1968 (TITLE X OF CIVIL RIGHTS ACT OF 1968). This law prohibits (1) teaching or demonstrating the use, application or making of any firearm, explosive or incendiary device, or technique capable of causing injury or death, with knowledge or with reason to know that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder; (2) transporting or manufacturing for transportation in commerce any firearm, explosive or incendiary device with knowledge or with reason to know or with intent that same will be unlawfully used in a civil disorder.

POSTAL LAWS AND REGULATIONS.

Concealable firearms, such as pistols or revolvers, may not be shipped through the mails, except to, by and between the following classes of persons in connection with their official duty--(a) active and reserve officers of the Armed Forces and state militia; (b) enforcement officers and employees of enforcement agencies; (c) watchmen of government property; (d) employees of the postal service. Shipments by manufacturers or dealers, from one to the other, are also exempted from the prohibition. Unloaded rifles and shotguns, and antique or unserviceable pistols and revolvers sent as curios or museum pieces, are mailable.

REGULATIONS GOVERNING THE EXPORTATION OF ARMS. (Note: Control over imports was transferred from the Department of State to the Department of the Treasury. See Gun Control Act of 1968, Item (d) on previous page.) These regulations, administered by the Office of Munitions Control, Department of State, provide, among other things, that (a) persons engaged in the business of manufacturing or exporting firearms or ammunition or components thereof (except shotguns and shotgun shells) must register with Secretary of State at the following fees: \$125 for one year, \$250 for two years, \$350 for three years, \$425 for four years, \$500 for five years; (b) the exportation of firearms or ammunition, except shotguns or shotgun ammunition, requires an export license (no charge) from the Office of Munitions Control; (c) a person may leave the United States, without a license, with a maximum of three firearms and 1,000 rounds of ammunition for such firearms when these articles are part of his baggage (accompanied or unaccompanied) and intended for his personal use, not for resale; (d) firearms manufactured prior to 1898 may be exported without a license.

INTERNAL REVENUE CODE OF 1954. This law imposes the following excise tax upon the sale by the manufacturer, producer or importer of firearms and ammunition: 10 percent--pistols and revolvers; 11 percent--firearms (other than pistols and revolvers), shells and cartridges.

TARIFF ACT OF 1930, as amended. Firearms not designed to fire, or incapable of firing, a fixed metallic cartridge or fixed shotgun shell are exempted from import duty.

FEDERAL AVIATION ACT OF 1958, as amended, AND REGULATIONS THEREUNDER. No person except a law-enforcement officer authorized or required to carry arms or other person authorized by regulations issued by the Administrator of the Federal Aviation Administration, may carry a deadly or dangerous weapon on or about his person while aboard an air carrier. Unloaded firearms in baggage not accessible to the passenger while aboard the aircraft are permissible.

Up to 50 pounds of small arms ammunition may be transported in passenger-carrying aircraft, provided that ammunition is inaccessible to passengers and properly packed according to regulations.

NOTE: Individual airlines may have additional regulations.

NATIONAL PARKS, MONUMENTS AND HISTORICAL AREAS. Hunting, or the use or display of firearms, is not permitted in national parks, monuments, and historical areas administered by the National Park Service, Department of Interior. (One area, Grand Teton, Wyoming, is open to limited public hunting by special permit). Firearms may be taken into national parks, etc., provided that the arms are sealed by a ranger, or the arms are broken down and not readily accessible.

NATIONAL RECREATION AREAS. Hunting is permitted in designated national recreation areas, national seashores, national lake shores, and national riverways administered by the National Park Service in accordance with regulations promulgated by the Secretary of the Interior and state law.

EXPLOSIVES UNDER DEPARTMENT OF TRANSPORTATION (DOT) REGULATIONS. Small arms ammunition and components are classified under federal regulations as follows: Class A explosives--blackpowder; Class B explosives (solid, propellant)--smoke-less powder; Class C explosives--ammunition and primers.

Smokeless powder for small arms in quantities not exceeding 100 pounds net weight may be classed as a flammable solid (FS) for purposes of transportation by common, contract or private carrier over public highways. Maximum quantity in any inside container must not exceed 8 pounds, and inside containers must be arranged and protected to prevent simultaneous ignition of the contents.

Explosives may be shipped by rail freight, rail express, rail baggage, highway or water, provided the articles are in proper condition for transportation and are packed, marked and otherwise prepared for shipment in accordance with regulations.

When explosives shipments are accepted by motor vehicle for further transportation by rail express, rail baggage, rail freight or by water on board vessel, they must, in addition to the basic requirements of the DOT, comply with the applicable regulations for the service by which the explosives are to be further transported.

The federal laws and regulations on the transportation of explosives are usually supplemented by state statutes and sometimes by local ordinances.

ORGANIZED CRIME CONTROL ACT OF 1970 (TITLE XI, EXPLOSIVES). Administered by the Alcohol, Tobacco and Firearms Division, Internal Revenue Service, Title XI (1) imposes severe penalties for the illegal transportation, possession or use of explosives in interstate commerce; (2) requires the licensing of explosives manufacturers, importers and dealers, and a permit for users. Excluded from license and permit requirements are all small arms ammunition and components thereof, and a maximum of five pounds of black powder.

HAWAII STATE GUN CONTROL LAWS

SUMMARY

Hawaii Law relative to gun control can be found in six different chapters of the Hawaii Revised Statutes:

- Chapter 128 - relative to the Governors powers during a civil defense emergency
- Chapter 134 - relative to firearms and ammunition; this is the basic firearms control law for the State of Hawaii
- Chapter 187 - relative to fish and game agents enforcing the provisions of Chapter 134
- Chapter 188 - relative to the prohibition of fishing with firearms
- Chapter 727 - relative to carrying a concealed weapon as a common nuisance
- Chapter 753 - relative to the discharge of firearms other than Chapter 134

Hawaii Law prohibits the use of firearms for fishing purposes, except for sharks; prohibits carrying a concealed weapon; prohibits discharging a weapon except when hunting or at a firing range; and allows for the enforcement of the laws by State Fish and Game agencies. In addition, it gives the Governor power to confiscate, control or otherwise dispose of or limit access to firearms in a Civil Defense emergency.

Chapter 134 of the Hawaii Revised Statutes requires that all firearms brought into the State be registered with the Chief of Police; a permit must be issued to acquire all firearms procured in the state except rifles and shotguns. No one under the age of 20, unless they have a hunting license, may possess any rifle or shotgun; no one may carry a firearm in a wrapper except between his home and a target range or hunting ground, or from his home to another home upon moving, etc. A license to carry a pistol must be secured from the Chief of Police; no fugitive from justice, convicted felon, or convicted drug user or dealer may possess any firearm or ammunition; machine guns, automatic rifles, silencers, etc., may not be possessed by anyone; the Chief of Police may issue a license to carry a pistol or revolver for a one year period; alterations of identification marks on a firearm is prohibited; exemptions to carry a pistol are made for police, military personnel, etc.; dealers must be licensed; carrying concealed weapons is prohibited.

HAWAII REVISED STATUTES

CHAPTER 128  
CIVIL DEFENSE AND EMERGENCY ACT

Section

128-6 Civil Defense Powers, In General.

§128-6 Civil Defense powers, in general. The governor may:

- (7) Explosives, etc. Whenever in his opinion the laws of the State do not adequately provide for the common defense, public health, safety, and welfare, investigate, regulate, or prohibit the storage, transportation use, possession, maintenance, furnishing, sale, or distribution of, as well as any transaction related to, explosives, firearms, and ammunition (including the power to require the re-registration of firearms), inflammable materials and other objects, implements, substances, businesses or services of a hazardous or dangerous character, or particularly capable of misuse by disloyal persons or the enemy, or obstructive of or tending to obstruct military operations or civil defense, including, without limitation, intoxicating liquor and the liquor business; and authorize the seizure and forfeiture of any such objects, implements, or substances unlawfully possessed, as provided in section 128-28.

HAWAII REVISED STATUTES

CHAPTER 134  
FIREARMS AND AMMUNITION

Part I. General Regulations

Section

- 134-1 Definitions
- 134-2 Registration, Mandatory
- 134-3 Permits to Acquire; Registration; Penalty
- 134-4 Transfer of Rifles and Shotguns
- 134-5 Possession by Licensed Hunters and Minors
- 134-6 Place to Keep Firearms; Loaded Firearms, When Prohibited
- 134-7 Ownership or Possession by Fugitive from Justice or by Person Convicted of Certain Crimes Prohibited; Penalty
- 134-8 Ownership, Etc., of Machine Guns, Automatic Rifles, Silencers, Etc., Prohibited; Penalty
- 134-9 Permits to Carry; Penalty
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- 134-12 Firearms Forfeited When
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Part II. Firearms, Dealers' Licenses

- 134-31 License to Sell and Manufacture Firearms; Fee
- 134-32 License to Sell and Manufacture Firearms; Conditions
- 134-33 Punishment for Violations of Section 134-32
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Part III. Dangerous Weapons

- 134-51 Carrying Deadly Weapons, Panalty
- 134-52 Switchblade Knives; Prohibitions; Panalty

Sec. 134-1 PUBLIC SAFETY AND INTERNAL SECURITY

PART I. GENERAL REGULATIONS

§134-1. Definitions. As used in this chapter:

"Firearm" means any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs,

cannon, and submachine guns. The specific mention of certain weapons does not exclude from the definition other weapons operated by explosives.

"Crime of violence" means any of the following crimes, namely: murder, manslaughter, rape, kidnapping, robbery, burglary, and those certain crimes set forth in sections 724-4, 724-5, and 724-6.

"Pistol" or "revolver" means any firearms of any shape whatsoever with barrel less than twelve inches in length and capable of discharging loaded ammunition or any noxious gas.

§134-2. Registration, mandatory. Every person arriving in the State who brings with him firearms of any description, whether useable or unuseable, serviceable or unserviceable, modern or antique, or ammunition of any type and description, shall within forty-eight hours after arrival, register the same with the chief of police of the county of his place of business, or if there be no place of business, his residence, or if there be neither place of business nor residence, his place of sojourn.

Registration shall not be required for: (a) any device designed to fire loose black powder; (b) a device not designed to fire or made incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition; and/or (c) all unserviceable firearms and destructive devices registered with the Director, Alcohol, Tobacco, and Firearms Division of the U. S. Internal Revenue Service as provided in Part 179 of Title 26, Code of Federal Regulations.

The registration shall be on such forms as may be designated by the department of the attorney general and shall include a description of the class of firearms and ammunition owned by him, or in his possession, together with the name of the maker and the factory number, if known or ascertainable, and the source from which possession was obtained.

Within ten days after the end of each month the respective chiefs of police shall furnish to the department duplicate copies of all registrations made during the preceding month.

No fee shall be charged for the registration.

Any person who fails to comply with this section shall be fined not more than \$250.

§134-3. Permits to acquire; registration; penalty. No person shall acquire the ownership of a firearm of any description (other than a rifle or shotgun having a barrel length of eighteen inches or over), whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, either by purchase, gift, inheritance, bequest, or in any other manner, whether procures in the State or imported by mail, express, freight or otherwise, until he has first procured from the chief of police of the county of his place of business, or if there be no place of business, his residence, or if there be neither place of business nor residence, his place of sojourn, a permit to acquire as prescribed herein; provided, when title to any such firearm is acquired by inheritance or bequest, the foregoing permit shall be obtained before taking possession of same. Further, no person shall keep in his possession any such firearm which is owned by another, irrespective of whether or not the owner has consented to its possession, without

a permit from the chief of police of the aforesaid county; provided, that any pistol or revolver, which is registered under, and in respect of which the owner has fully complied with, this chapter, may be loaned to another even though he be a minor, upon a target range, for a period not longer than to allow the other person to then and there use it for target shooting, without a permit.

Each chief of police may issue permits, within his jurisdiction, to acquire such firearms, to citizens of the United States, of the age of twenty years or more, and to duly accredited official representatives of foreign nations. Each chief of police may also issue permits to aliens of the age of twenty years or more for use of rifles and shotguns for a period not exceeding sixty days, after the alien had first procured a hunting license under sections 191-1 to 191-6.

Applications for the permits shall be signed by the applicant upon forms to be specified by the department of the attorney general and shall be signed by the issuing authority. One copy of the permit shall be retained by the issuing authority, as a permanent official record. The permit shall be void unless used within ten days after the date of issue. In all cases where possession is acquired from another person in the State the permit shall be signed in ink by the holder thereof and shall be delivered to and taken up by the person who is transferring title to the firearm, who shall make entry thereon setting forth in the space provided, the name of the person to whom the firearm was transferred, and the make, style, caliber, and number as applicable. He shall then sign it in ink and cause it to be delivered or sent by registered mail to the issuing authority within forty-eight hours. In case receipt of the firearms is had by mail, express, freight or otherwise, from sources without the State, the person to whom the permit has been issued shall make the prescribed entries thereon, sign it in ink, and cause it to be delivered, or sent by registered mail to the issuing authority within forty-eight hours after taking possession of the firearm. No person shall sell, give, loan, or deliver into the possession of another any firearm or ammunition except in accordance with this section.

Any person acquiring a firearm under this section shall, within five days of acquisition, register it in the manner prescribed by section 134-2.

No fee shall be charged for permits under this section.

Any person who violates this section shall be fined not more than \$500 or imprisoned not more than one year, or both.

§134-4. Transfer of rifles and shotguns. No transfer of any rifle or shotgun having a barrel length of eighteen inches or over, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, shall be made in any event to any person under the age of twenty years, and no person under the age of twenty years shall possess any such rifle or shotgun, except as provided by section 134-5.

It shall be unlawful for any person to own or possess such rifle, unless he is a citizen of the United States, or an alien who has procured a hunting license under sections 191-1 to 191-6 and a firearms permit under

section 134-3.

Any person who violates this section shall be fined not more than \$500 or imprisoned not more than one year, or both.

§134-5. Possession by licensed hunters and minors. Any person of the age of sixteen years or over, and any person under the age of sixteen years while accompanied by an adult, who has procured a hunting license under sections 191-1 to 191-6, may, while actually engaged in hunting or while going to and from the place of hunting, or while actually engaged in target shooting upon a target range, carry and use any lawfully acquired rifle or shotgun and suitable ammunition therefor.

§134-6. Place to keep firearms; loaded firearms, when prohibited. Except as provided in sections 134-5 and 134-9, the possession of all firearms and ammunition shall be confined to the possessor's place of business, residence, or sojourn, but it shall be lawful to carry firearms or ammunition, or both, in a wrapper or other suitable container from the place of purchase to the purchaser's home, place of business, or place of sojourn, or between these places upon change of place of business, abode, or sojourn, or between these places and a place of repair or a target range.

It shall be unlawful for any person to have in his possession or to carry on any public highway any firearm loaded with ammunition; provided that the provisions of this paragraph shall not apply to any person who has in his possession or carries a pistol or revolver and ammunition therefor in accordance with a license or permit issued, as provided in section 134-9.

Any person who violates any provision of this section shall be fined not more than \$1000 or imprisoned not more than one year, or both.

§134-7. Ownership or possession by fugitive from justice or by person convicted of certain crimes prohibited; penalty. (a) No person who is a fugitive from justice shall own or have in his possession or under his control any firearm or ammunition therefor. As used in this section the term "fugitive from justice" means any person who has fled from any state, territory, the District of Columbia, or possession of the United States to avoid prosecution for a felony or to avoid giving testimony in any criminal proceeding.

(b) No person who has been convicted in this State or elsewhere of having committed a felony or of the illegal use and possession or sale of any drug shall own or have in his possession or under his control any firearm or ammunition therefor.

(c) Any person violating this section or section 134-6 shall be imprisoned for a term of not less than one year nor more than two years without probation.

§134-8. Ownership, etc., of machine guns, automatic rifles, silencers, etc., prohibited, penalty. The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any machine guns, submachine guns, auto-

matic rifles, or rifles with barrel lengths less than 16 inches, or shot-guns with barrel length less than 18 inches, cannon, mufflers, silencers, or devices for deadening or muffling the sound of discharged firearms, or any hand grenade, dynamite or other explosives, blasting caps, bombs or bombshell is prohibited. Any person violating this section shall be imprisoned for a term of not less than two years nor more than five years, without probation.

§134-9. Permits to carry; penalty. In an exceptional case, when the applicant shows reason to fear injury to his person or property, the respective chiefs of police may grant a license to a citizen of the United States or a duly accredited official representative of a foreign nation, of the age of twenty years or more, to carry concealed on his person within the county where the license is granted, a pistol or revolver and ammunition therefor; or where the urgency of the need has been sufficiently indicated to the respective chiefs of police, they may grant to an applicant of good moral character who is a citizen of the United States of the age of twenty years or more who is engaged in the protection of life and property and not prohibited under section 134-7 from the ownership or possession of a firearm, a license to carry unconcealed on his person within the county where the license is granted a pistol or revolver. Unless renewed, the license shall automatically become void at the expiration of one year from date of issue. No license shall be issued unless it appears that the applicant is a suitable person to be so licensed, and in no event to a person who is prohibited under section 134-7 from the ownership or possession of a firearm, or a person adjudged insane or appearing to be mentally deranged. No person shall carry concealed or unconcealed on his person a pistol or revolver without being licensed so to do under this section or in compliance with section 134-6.

For each license there shall be charged a fee of \$10, which shall be deposited in the treasury of the county in which the license is granted.

Any person violating this section shall be imprisoned for a term of not less than two years nor more than five years, without probation.

§134-10. Alteration of identification marks prohibited; penalty. No person shall wilfully alter, remove, or obliterate the name of the make, model, manufacturer's number, or other mark of identity of any firearm or ammunition. Possession of a firearm or ammunition upon which any mark of identity has been altered, removed, or obliterated shall be presumptive evidence that the possessor has altered, removed, or obliterated the same. Any person who violates this section shall be imprisoned for a term of not less than one year nor more than two years, without probation.

§134-11. Exemptions. Sections 134-6 to 134-9 shall not apply:

- (1) To members of police departments, sheriffs, members of military and naval forces of the State and of the United States, mail carriers, and law enforcement officers;

- (2) To regularly enrolled members of any organization duly authorized to purchase or receive the weapons from the United States or from the State, provided the members are at, or going to or from their places of assembly, or target practice;
- (3) To persons employed by the State or subdivisions thereof or the United States whose duties require them to be armed, while the persons are in the performance of their respective duties, or while going to and from their respective places of duty;
- (4) To police officers on official assignment in Hawaii from any state which by compact permits police officers from Hawaii, while on official assignment in that state to carry firearms without registration. The governor of the State or his duly authorized representative may enter into compacts with other states to carry out this section.

Nor shall sections 134-2 and 134-3 apply to such firearms or ammunition as are a part of the official equipment of any federal agency.

§134-12. Firearms forfeited when. All firearms or ammunition carried or possessed contrary to law shall be forfeited to the State and shall be destroyed or retained by the chief of police of any county, for use by and under the control of the police department in whose jurisdiction they are forfeited.

§134-13. Revocation of permits. All permits and licenses provided for under this part may be revoked, for good cause, by the issuing authority or by the judge of any court.

§134-14. Report. Within ten days after the last day of each month each of the authorities herein authorized to issue or revoke permits and licenses shall make a report to the department of the attorney general as of the last day of the preceding month of all permits and licenses issued or revoked by him. The report shall be in such manner and in such form as the department may prescribe.

§134-15. Penalty for falsification. If any person, in complying with any of the requirements of this part, gives false information, or offers false evidence of his identity, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

## PART II. FIREARMS, DEALERS' LICENSES

§134-31. License to sell and manufacture firearms; fee. Any person desiring to engage in the business to sell and manufacture firearms for sale in the State either at wholesale or retail, shall annually file an application for a license therefor with the director of finance of each county of the State. The annual fee for the issuance of such license shall be \$10.00 and shall be payable to said director of finance. A license

issued hereunder shall expire on June 30 next following the date of issuance of the license unless sooner terminated. Application for renewal of license shall be filed on or before June 30 of each year.

§134-32. License to sell and manufacture firearms; conditions. Every license issued pursuant to this part shall be issued and shall be regarded as having been accepted by the licensee subject to the following conditions:

- (1) That the licensee shall at all times comply with all provisions of law relative to the sale of firearms.
- (2) That the license may during any time of national emergency or crisis, as defined in section 134-34, be canceled or suspended.
- (3) That all firearms in the possession and control of any licensee may at any time of national emergency or crisis, as defined in section 134-34, be seized and held in possession or purchased by or on the order of the governor until such time as the national emergency or crisis has passed, or until such time as the licensee and the government of the United States or the government of the State may agree upon some other disposition of the same.

§134-33. Punishment for violations of section 134-32. Any person who manufactures or sells any firearms within the State without having a valid license so to do, or who being a holder of a license violates any of the terms or conditions of the same, shall be fined not less than \$100 or more than \$1,000 or imprisoned not less than three months nor more than one year.

§134-34. National emergency, when. A national emergency or crisis shall be deemed to have arisen when the governor, the commanding general of the United States Army, Pacific, and the commandant of the 14th Naval District and Hawaiian Sea Frontier have, in the exercise of their discretion, so determined.

### PART III. DANGEROUS WEAPONS

§134-51. Carrying deadly weapons; penalty. Any person not authorized by law, who carries concealed upon his person or within any vehicle used or occupied by him, or who is found armed with any dirk, dagger, black-jack, slug shot, billy, metal knuckles, pistol, or other deadly or dangerous weapon, shall be fined not more than \$250, or imprisoned not more than one year, or both. Any such person may be immediately arrested without warrant by any sheriff, policeman, or other officer or person. Any weapon, above enumerated, shall, upon conviction of the one carrying or possessing same under this section, be summarily destroyed by the chief of police or sheriff.

§134-52. Switchblade knives; prohibitions; penalty. Whoever knowingly manufactures, sells, transfers, possesses, or transports in the State any switchblade knife, being any knife having a blade which opens automatically (1) by hand pressure applied to a button or other device in the handle of the knife, or (2) by operation of inertia, gravity, or both, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

HAWAII REVISED STATUTES

CHAPTER 187  
GENERAL PROVISIONS RELATING TO FISH AND GAME

Section

187-15 Enforcement of Other Laws

§187-15. Enforcement of Other Laws. The fish and game agents of the the department of land and natural resources shall, in addition to any other powers possessed by them, have power to enforce the laws relating to firearms and ammunition contained in chapter 134.

HAWAII REVISED STATUTES

CHAPTER 188  
FISHING RIGHTS AND REGULATIONS

Part II. Fishing Regulations Generally

Section  
188-25 Fishing with Firearms, Spears.

PART II. FISHING REGULATIONS, GENERALLY

§188-25. Fishing with firearms, spears. (a) It shall be unlawful for any person to pursue, take or kill any turtle, crustacean, mollusk, aquatic mammal or fish other than sharks in the waters of the State with firearms as defined in section 134-1 or to pursue, take or kill any crustacean with a spear.

(b) It shall be unlawful for any person below the age of fourteen years who is not accompanied by an adult to use a spear-gun in the waters of the State.

HAWAII REVISED STATUTES

CHAPTER 727  
COMMON NUISANCE

Section

727-1 Defined

727-25 Carrying Deadly Weapons; Penalty

§727-1. Defined. The offense of common nuisance is the.... making or storing gunpowder in or near a populous or public or frequented place, without authority therefor, or otherwise making or storing the same contrary to law;

Blasting with excessive charge of giant powder or other explosives.

§727-25. Carrying deadly weapons; panalty. Any person not authorized by law, who carries concealed upon his person or within any vehicle used or occupied by him, or who is found armed with any dirk, dagger, blackjack, slug shot, billy, metal knuckles, pistol, or other deadly or dangerous weapon, shall be fined not more than \$250, or imprisoned not more than one year, or both. Any such person may be immediately arrested without warrant by any sheriff, policeman, or other officer or person. Any weapon, above enumerated, shall, upon conviction of the one carrying or possessing same under this section, be summarily destroyed by the chief of police or sheriff.

**CONTINUED**

**1 OF 2**

HAWAII REVISED STATUTES

CHAPTER 753  
INJURY BY EXPLOSIVES, ETC.

Section  
753-13 Discharge of Weapons

§753-12. Discharge of Weapons. Whoever discharges any firearm or other weapon, including airguns and slingshots, capable of causing death or serious bodily injury, from any street, sidewalk, alley or public land, or on any private parcel of land or building in such manner that the projectile so discharged may reasonably be expected to traverse any ground or space outside the limits of such parcel of land or building or in such manner that persons or property may be endangered, except in the lawful defense of life or property or in the performance of official duty, shall not be construed to prohibit the discharge of weapons at target ranges and places of hunting by persons so authorized by section 134-5.



SECTION III:  
RECOMMENDATIONS AND COMMENTARY

RECOMMENDATIONS AND COMMENTARY

In the year 1783, King Kamehameha traveled to the Puna District of the Big Island. On his arrival, the fishermen of Puna were frightened, for they were aware of the fierce reputation of Kamehameha. According to the Hawaiian Annual of 1906, the King chased after the fishermen, who ran from him, and caught his foot in a crevice of lava rock. At this, the fishermen attacked. During the melee which ensued, one of them broke a boat paddle over Kamehameha's back, and his favorite navigator was injured by a spear.

As an outcome of this incident, which resulted in the ultimate death of the navigator, and which was partly due to the fear which Kamehameha instilled in the people, the King decreed the Mamalahoa, which is commonly called the Law of the Splintered Paddle. "Let the aged man go and sleep on the roadside; let the aged woman go and sleep on the roadside, and let no one injure or molest them."

This decree is the first known instance of a Hawaiian Law being promulgated as a result of an attack with a deadly weapon.

In Hawaii today the Mamalahoa has long since been forgotten. Our aged, our young, our middle aged can not sleep on the roadside, nor walk the streets of our cities, nor camp on our beaches without fear of injury or molestation.

In the place of paddles, rocks and spears in Kamehameha's time, our attackers are armed with firearms. The City Council and the Administration of the City and County of Honolulu both believe that ownership of firearms ought to be more tightly restricted. By imposing more rigid restrictions upon the ownership of firearms, and specifically upon handguns, pistols and revolvers, it is felt that our islands will move in some measure towards a closer observance of the Law of the Splintered Paddle.

It is not our intent to place any undue hardship or restrictions on law-abiding citizens who wish to acquire and use appropriate firearms for target practice, hunting, or any other lawful activity. It is our desire to obtain adequate controls over firearms as an aid in our efforts toward the reduction of crimes of violence with the use of firearms. We do not expect to eliminate all such crimes, but the recommended Legislation will serve as a means to more effectively control the purchase, sale and transfer of all firearms and ammunition which is an important factor in minimizing crimes of violence.

Legislation is needed which will assure that there will be some control over the purchase and use of all firearms and other dangerous weapons by those persons within the community who may give vent to anger through acts of violence, whether the act be that of a demented mind or of a temporarily emotionally distraught individual.

RECOMMENDED LEGISLATION

Simply stated, the legislation recommended here requires Registration of all Firearms, and place a prohibition on ownership of handguns, revolvers, and pistols except in certain instances specifically noted.

There has been a great deal of discussion by advocates and opponents of gun control legislation over the Second Amendment to the Federal Constitution.

The Second Amendment to the Federal Constitution reads:

"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 major ruling by the Supreme Court of the United States on the applicability of this amendment to gun control laws is found in the case of the United States v. Miller, decided May 15, 1939.

The Court found:

- "In the absence of evidence tending to show that possession or use of a "shotgun having a barrel of less than 18 inches in length," which is the subject of regulation and taxation by the National Firearms Act of June 26, 1934 has some reasonable relationship to the preservation or efficiency of a well-regulated militia, it cannot be said that the Second Amendment to the Federal Constitution guarantees the right to keep and bear such an instrument, or that the statute violates such constitutional provision.

- It is not within judicial notice that a shotgun having a barrel of less than 18 inches in length is any part of the ordinary military equipment or that its use could contribute to the common defense.

- The Second Amendment must be interpreted and applied with a view to its purpose of rendering effective the Militia."

It should be noted that Section 134-11 of the Hawaii Revised Statutes specifically exempts from its provisions relating to permits to carry firearms and places to keep firearms, "members of military and Naval forces of ths State and of the United States..." This exemption would continue to apply, and, in our opinion, meet the criteria of the court as set forth above.

PROPOSED LEGISLATION

A BILL FOR AN ACT

RELATING TO GUN CONTROL

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The purpose of this Act is to establish a policy to ban the sales of pistols and revolvers except to registered gun clubs to prevent their dangerous and reckless use. Registered gun clubs will be exempt from the ban and shall provide the control necessary for the safety and protection of all citizens through educating the public on the proper use of firearms. It is also the purpose of this Act to require registration of all firearms in the State of Hawaii.

SECTION 2. Section 134-1, Hawaii Revised Statutes is amended to read as follows:

"Sec. 134-1 Definitions. As used in this chapter:

"Firearm" means any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannon, and submachine guns. The specific mention of certain weapons does not exclude from the definition other weapons operated by explosives.

"Crime of violence" means any of the following crimes, namely: murder, manslaughter, rape, kidnapping, robbery, burglary, and those certain crimes set forth in sections 724-4, 724-5 and 724-6.

"Pistol" or "revolver" means any firearms of any shape whatsoever with barrel less than twelve inches in length and capable of discharging loaded ammunition or any noxious gas.

"Gun Club" means a group or organization registered with the National Rifle Association and meeting the requirements of the department of regulatory agencies established pursuant to chapter 91."

SECTION 3. Section 134-2, Hawaii Revised Statutes is amended to read as follows"

"Sec. 134-2 Registration mandatory. Every person arriving in the State who brings with him firearms of any description, or any person in the State who causes to be brought into the State firearms of any description, whether useable or unuseable, serviceable or unserviceable, modern or antique, or ammunition of any type and description, shall within forty-eight hours after arrival of the firearms within the State, register the same with the chief of police of the county of his place of business, or if there be no place of business, his residence, or if there be neither place of business nor residence, his place of sojourn.

Every person, corporation or business entity, in the State who owns or possesses firearms of any description which are now present in the State, whether useable or unuseable, serviceable or unserviceable, modern or antique, shall register the same within ninety days from the date of this Act takes effect, with the chief of police of the county of his place of business, or if there be no place of business, his residence, or if there be no place of business, his residence, or if there be neither place of business nor residence, his place of sojourn.

Registration shall not be required for: (a) any device designed to fire loose black powder; (b) a device not designed to fire or made incapable of being readily restored to a firing condition; and/or (c) all unserviceable firearms and destructive devices registered with the Director, Alcohol, Tobacco, and Firearms Division of the U. S. Internal Revenue Service as provided in Part 179 of Title 26, Code of Federal Regulations.

The registration shall be on such forms as may be designated by the department of the attorney general and shall include a description of the class of firearms and ammunition owned by him, or in his possession, together with the name of the maker and the factory number, if known or ascertainable, and the source from which possession was obtained.

Within ten days after the end of each month the respective chiefs of police shall furnish to the department duplicate copies of all registrations made during the preceding month.

No fee shall be charged for the registration.

Any person who fails to comply with this section shall be fined not more than \$250.

SECTION 4. Section 134-6, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 134-6 Place to keep firearms, pistols and revolvers; loaded firearms, when prohibited. Except as provided in sections 134-5 and 134-9, the possession of all firearms and ammunition shall be confined to the possessor's place of business, residence, or sojourn[,]; except for pistols and revolvers, which shall be confined to gun clubs and kept under lock; but it shall be lawful to carry firearms, other than pistols and revolvers, or ammunition, or both, in a wrapper or other suitable container from the place of purchase to the purchaser's home, place of business, or place of sojourn, or between these places upon change of place of business, abode, or sojourn, or between these places and a place of repair or a target range[.] and it shall be lawful to carry pistols and revolvers in a wrapper or other suitable container from the place of purchase to a gun club or between gun clubs or between a gun club and a place of repair or a target range.

It shall be unlawful for any person to have in his possession or to carry on any public highway any firearm loaded with ammunition; provided that the provisions of this paragraph shall not apply to any person who has in his possession or carries a pistol or revolver and ammunition therefor in accordance with a license or permit issued, as provided in section 134-9.

Any person who violates any provision of this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

SECTION 5. Section 134-8, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 134-8 Ownership, etc., of machine guns, automatic rifles, silencers, handguns etc., prohibited; penalty. (a) The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any machine guns, submachine guns, automatic rifles, or rifles with barrel lengths less than [16] sixteen inches, or shotguns with barrel lengths less than [18] eighteen inches, cannon, mufflers, silencers, or devices for deadening or muffling the sound of discharged firearms, or any hand grenade, dynamite or other explosives, blasting caps, bombs or bombshell is prohibited. Any person violating this [section] subsection shall be imprisoned for a term of not less than two years nor more than five years, without probation.

(b) The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any handguns is prohibited, except as provided in Sections 134-6, 134-9 and 134-11. Every person in the State possessing a handgun shall within thirty days after the effective date of this subsection turn such handgun in to the chief of police of the county of his place of business or residence. Every person arriving in the State, who brings with him a handgun, shall within forty-eight hours after arrival, turn the same in to the chief of police of the county of his place of business, or if there be no place of business, his residence in the State, or if there be no place of business or residence, his place of sojourn in the State. Any person knowingly violating this subsection shall be imprisoned for a term of not less than ten years nor more than twenty years, without probation."

SECTION 6. Section 134-51, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 134-51 Carrying deadly weapons; penalty. Any person not authorized by law, who carries concealed upon his person or within any vehicle used or occupied by him, or who is found armed with any dirk, dagger, blackjack, slug shot, billy, metal knuckles, pistol, or other deadly or dangerous weapon, except for handguns, shall be fined not more than \$250, or imprisoned not more than one year, or both. Any such person may be immediately arrested without warrant by any sheriff, policeman, or other officer or person. Any weapon, above enumerated, shall, upon conviction of the one carrying or possessing same under this section, be summarily destroyed by the chief of police or sheriff."

SECTION 7. Chapter 134, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 134- Sale and ownership of pistols and revolvers. Except as provided in section 134-11, the sale of pistols and revolvers is prohibited except to gun clubs registered with the department of regulatory agencies. It shall be unlawful for any person who is not a member of a gun club to purchase or possess a pistol or revolver.

Any person violating this section shall be punishable as provided in Section 134-8."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 9. This Act shall take effect upon its approval.

ALTERNATIVE I

Since the primary purpose of the proposed gun control laws should be to reduce the number of guns possessed by citizens, it felt that a general taxing provision on the sale, barter, transfer, gift or any other exchange of handguns would tend to accomplish this fact to a lesser degree than the major recommendation. Nonetheless, any reduction in the number of handguns in general circulation must be viewed as worthwhile.

The following proposed Act would accomplish a reduction through the use of the State's taxing power.

It has been argued, in the case *Sonzinsky v. United States* that the exercise of the taxing power to accomplish a regulation is unlawful. However the Supreme Court held:

- "1. A statute imposing an annual license tax of \$200 on dealers in machine guns, silencers, shotguns or rifles having a barrel less than 18 inches in length, or other firearms, except a pistol or revolver, capable of being concealed on the person, is within the taxing power of Congress, even though in conjunction with other taxes on the business of the importer or manufacturer of such weapons, and on each transfer thereof, payable by the transferor, it exercises a deterrent effect upon the activities taxed.
2. The provision of the National Firearms Act which imposes an annual license tax of \$200 on dealers in firearms and declares that its provisions are separable, may be given full effect irrespective of the validity or invalidity of other provisions taxing importers and manufacturers of firearms, and on each transfer of a firearm, payable by the transferor, and prescribing regulations for the identification of purchasers.
3. In the exercise of its constitutional power to lay taxes. Congress may select the subjects of taxation, choosing some and omitting others.
4. The power of Congress to lay taxes extends to the imposition of excise taxes upon the doing of business.
5. A tax laid by Congress is not any the less a tax because it has a regulatory effect; and an Act of Congress which on its face purports to be an exercise of the taxing power is not any the less so because the tax is burdensome or tends to restrict or suppress the thing taxed.
6. Inquiry into the hidden motives which may move Congress to exercise the power constitutionally conferred upon it is beyond

the competency of courts; and they will not undertake, by collateral inquiry as to the measure of the regulatory effect of a tax, to ascribe to Congress an attempt, under the guise of taxation, to exercise another power denied by the Federal Constitution."

It should be noted that the exception mentioned in finding "1" above in regard to pistols and revolvers does not exclude as tax on these items; rather, the wording is taken directly from the National Firearms Act of 1934 which excludes a tax on these items. It may be safely assumed that a tax on any transfer or exchange of possession of handguns, pistols and revolvers, would be considered constitutional and within the State's constitutional power to select the subjects of taxation, choosing some and omitting others.

PROPOSED LEGISLATION

A BILL FOR AN ACT

RELATING TO GUN CONTROL

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The intent of this Act is to raise revenues from fees charged for the sale, transfer and registration of firearms in order to establish a comprehensive and stringent licensing procedure for persons wishing to possess firearms.

SECTION 2. Section 134-2, Hawaii Revised Statutes is amended to read as follows:

Sec. 134-2 Registration, mandatory. Every person arriving in the State who brings with him firearms of any description, or any person in the State who causes to be brought into the State firearms of any description whether usable or unusable, serviceable or unserviceable, modern or antique, [or ammunition of any type and description,] shall within forty-eight hours after arrival of the firearms within the State, register the same with the chief of police of the county of his place of business, or if there be no place of business, his residence, or if there be neither place of business nor residence, his place of sojourn.

Every person, corporation, or business entity in the State who owns or possesses firearms of any description which are now present in the State, whether usable or unusable, serviceable or unserviceable, modern or antique, shall within one year from the date this paragraph takes effect, register the same with the chief of police of the county of his place of business, or if there be no place of business, his residence, or if there be no place of business nor residence, his place of sojourn.

Registration shall not be required for:  (a) any

(1) Any device designed to fire loose black powder;  (b) a

(2) A device not designed to fire or made incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition;  and/or (c) all  and

(3) All unserviceable firearms and destructive devices registered with the Director, Alcohol, Tobacco, and Firearms Division of the U. S. Internal Revenue Service as provided in Part 179 of Title 26, Code of Federal Regulations.

The registration shall be on such forms as may be designated by the department of the attorney general  and  which shall at least include a description of the  class of firearms ammunition owned by him, or in his

possession, together with the name of the maker and the factory number, if known or ascertainable,  manufacturer and importer, model, type of action, caliber or gauge, and the serial number of the firearm, and the source from which  possession receipt was obtained  , including name and address or name and license number. The form shall also include the name, address, sex, height, weight, date of birth, place of birth, and shall require the fingerprinting and photographing of the registrant by the police department at the county of registration. In the event an identification number cannot be supplied for a firearm, the firearm shall be surrendered at the time of registration, an identification number shall be assigned to and imprinted on the firearm by the police department, and the firearm shall be returned to the applicant if his ownership or possession is otherwise authorized by law.

Within ten days after the end of each month the respective chiefs of police shall furnish to the department of the attorney general duplicate copies of all registrations made during the preceding month.

No  A fee of \$50.00 shall be charged for the registration.

Any person who fails to comply with this section shall be fined not more than \$250.  Any person who violates this section shall be fined not more than \$250 or imprisoned not more than 7 days, or both.

Sec. 134-3 Permits to acquire; registration, penalty. No person shall acquire the ownership of a firearm of any description  (other than a rifle or shotgun having a barrel length of eighteen inches or over)  whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, either by purchase, gift, inheritance, bequest, or in any other manner, whether procured in the State or imported by mail, express, freight or otherwise, until he has first procured from the chief of police of the county of his place of business, or if there be no place of business, his residence, or if there be neither place of business or residence, his place of sojourn, a permit to acquire as prescribed herein; provided, when title to any such firearm is acquired by inheritance or bequest, the foregoing permit shall be obtained before taking possession of same. Further, no person shall keep in his possession any such firearm which is owned by another, irrespective of whether or not the owner has consented to its possession, without a permit from the chief of police of the aforesaid county; provided, that any pistol or revolver, which is registered under, and in respect of which the owner has fully complied with, this chapter, may be loaned to another even though he be a minor, upon a target range, for a period not longer than to allow the other person to then and there use it for target shooting, without a permit.

Each chief of police may issue permits, within his jurisdiction, to acquire such firearms, to citizens of the United States, of the age of eighteen years or more, and to duly accredited official representatives of foreign nations. Each chief of police may also issue permits to aliens

of the age of eighteen years or more for use of rifles and shotguns for a period not exceeding sixty days, after the alien had first procured a hunting license under sections 191-1 to 191-6.

Applications for the permits shall be signed by the applicant upon forms to be specified by the department of the attorney general and shall be retained by the issuing authority, as a permanent official record. The permit shall be void unless used within ten days after the date of issue. In all cases where possession is acquired from another person in the State the permit shall be signed in ink by the holder thereof and shall be delivered to and taken up by the person who is transferring title to the firearm, who shall make entry thereon setting forth in the space provided, the name of the person to whom the firearm was transferred, and the make, style, caliber, and number as applicable. He shall then sign it in ink and cause it to be delivered or sent by registered mail to the issuing authority within forty-eight hours. Upon notification of receipt of the permit by the chief of police indicating the transfer of title, the new owner shall within five days complete the registration forms as provided in section 134-2. In case receipt of the firearm is had by mail, express, freight or otherwise, from sources without the State, the person to whom the permit has been issued shall make the prescribed entries thereon, sign it in ink, and cause it to be delivered, or sent by registered mail to the issuing authority within forty-eight hours after taking possession of the firearm. No person shall sell, give, loan, or deliver into the possession of another any firearm or ammunition except in accordance with this section.

Any person acquiring a firearm under this section shall, within five days of acquisition, register it in the manner prescribed by section 134-2.

No fee shall be charged for permits under this section.

Any person who violates this section shall be fined not more than \$500 or imprisoned not more than one year, or both."

SECTION 3. Section 134-9, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 134-9 Permits to carry; penalty. In an exceptional case, when the applicant shows reason to fear injury to his person or property, the respective chiefs of police may grant a license to a citizen of the United States or a duly accredited official representative of a foreign nation, of the age of [twenty] eighteen years or more, to carry concealed on his person within the county where the license is granted a pistol or revolver and ammunition therefor; or where the urgency of the need has been sufficiently indicated to the respective chiefs of police, they may grant to an applicant of good moral character who is a citizen of the United States of the age of [twenty] eighteen years or more, who is en-

gaged in the protection of life and property and not prohibited under section 134-7 from the ownership or possession of a firearm, a license to carry unconcealed on his person within the county where the license is granted, a pistol or revolver. Unless renewed, the license shall automatically become void at the expiration of one year from date of issue. No license shall be issued unless it appears that the applicant is a suitable person to be so licensed, and in no event to a person who is prohibited under section 134-7 from the ownership or possession of a firearm or a person adjudged insane or appearing to be mentally deranged [.] or acquitted of any criminal charge by reason of insanity. No person shall carry concealed or unconcealed on his person a pistol or revolver without being licensed so to do under this section or in compliance with section 134-6.

For each license there shall be charged a fee of [\$10,] \$25.00, which shall be deposited in the treasury of the county in which the license is granted.

Any person violating this section shall be imprisoned for a term of not less than two years nor more than five years, without probation."

SECTION 4. Section 134-31, Hawaii Revised Statutes is amended to read as follows:

Sec. 134-31 License to sell and manufacture firearms; fee. Any person desiring to engage in the business to sell and manufacture firearms for sale in the State either at wholesale or retail, shall annually file an application for a license therefor with the director of finance of each county of the State. The annual fee for the issuance of such license shall be [\$10.00] \$200.00 and shall be payable to said director of finance. A license issued hereunder shall expire on June 30 next following the date of issuance of the license unless sooner terminated. Application for renewal of license shall be filed on or before June 30 of each year.

SECTION 5. Section 134-32, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 134-32 License to sell and manufacture firearms; conditions. Every license issued pursuant to this part shall be issued and shall be regarded as having been accepted by the licensee subject to the following conditions:

- (1) That the licensee shall at all times comply with all provisions of law relative to the sale of firearms.
- (2) That the license may during any time of national emergency or crisis, as defined in section 134-34, be canceled or suspended.
- (3) That all firearms in the possession and control of any licensee may at any time of national emergency or crisis, as defined in section 134-34, be seized and held in possession or purchased

by or on the order of the governor until such time as the national emergency or crisis has passed, or until such time as the licensee and the government of the United States or the government of the State may agree upon some other disposition of the same.

- (4) That the licensee who is a dealer shall maintain records containing an inventory of guns received together with the name and address of the person, dealer, or manufacturer from whom received, and the manufacturer, type, and serial number of each gun. These records which are to be retained for at least five years shall be available for inspection at all reasonable times by the department of the attorney general and chief of police of the county or his duly designated representatives."

SECTION 6. A new Section is added to Chapter 134, Hawaii Revised Statutes to be appropriately designated:

"Sec. 134- Use of Fees. All fees collected by the counties under Sections 134-2, 134-9 and 134-31 shall be used by the counties to establish a testing procedure whereby applicants for a permit to purchase and a registration certificate or a license to sell firearms must demonstrate their skill, prudence, and knowledge of the firearm being purchased, registered or otherwise possessed by the applicant.

The chief of police of each county shall establish such procedures and take such measures as he believes necessary to implement the requirements of this section.

In no event shall any permit, registration certificate or license authorized in the sections of this chapter be issued until the requirements of this section are satisfied."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 8. This Act shall take effect upon its approval.

ALTERNATIVE II

The second alternative proposed here is based upon a finding in Section 1 of this report. That being - an increase in the number of weapons possessed by the population leads to an increase in crime. Also, that regardless of the strength or weakness of the laws in neighboring states, strong law states have lower crime rates.

To this end, it is proposed that the counties be enabled by the legislature to enact gun control restrictions by ordinance as they determine the need within their respective island jurisdictions.

PROPOSED LEGISLATION

A BILL FOR AN ACT

RELATING TO GUN CONTROL

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII

SECTION 1. The purpose of this Act is to enable the respective counties of the State of Hawaii to enact by ordinance restrictions pertaining to firearms and ammunition within the counties of a more restrictive nature than is contained in existing state law.

SECTION 2. Chapter 134, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"Part IV County Authority"

"Section 134- Authority of the Counties to control firearms by ordinance. Nothing in this chapter shall be construed to prevent the respective counties of the State from enacting by ordinance regulations and restrictions pertaining to firearms and ammunition, except that such ordinances shall not in any manner lessen any requirement contained in the other sections of this chapter."

Text of Resolution No. 147  
July 5, 1972

RESOLUTION

The Council

of the City and County of Honolulu

hereby endorses the banning of possession of handguns by everyone, except law enforcement officers, security agents and others authorized to carry same by the Police Department due to the nature of their work.

Unlike the rifle, the handgun has very little value as a sports weapon, and its main purpose in the hands of non-authorized personnel appears to be physical violence.

We hereby direct the Legislative Committee of this Council to exert every effort in having such legislation enacted into law in the next session of the Legislature.

INTRODUCED BY:

/s/ George Koga

**END**