



Department of Justice

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ADDRESS

BY

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BEFORE

THE LAW ENFORCEMENT EXECUTIVES NARCOTICS CONFERENCE

7:30 P.M.
SUNDAY, APRIL 6, 1975
EMBASSY ROW HOTEL
WASHINGTON, D.C.

I would like to talk with you tonight about a problem that concerns us all, both as officials charged with the duty of enforcing the law and as citizens and residents of American cities. Violent crime in the nation's urban areas has reached grave proportions. As police chiefs you meet this problem every day. You see the ugly results of violence not only among the victims of such crimes, but also in the looks of fear that appear intolerably often on the faces of the people you serve.

The Federal Bureau of Investigation's latest figures indicate that the rate of serious crime -- murder, forcible rape, robbery, aggravated assault, burglary, larceny, and auto theft -- was 17 per cent higher in 1974 than in 1973. That is the biggest increase in the 42 years the Bureau has been collecting statistics. Since 1960, the rate has increased about 200 per cent. Among the serious crimes, those involving violence or the threat of it have also been on the increase, in large part because of increases both in the cities and in the suburban areas around them. Once composed mainly of crimes of passion within families or circles of acquaintances, the murder rate lately has included increasing numbers of crimes in which the perpetrator and victim were strangers. Impersonal, passionless murder on the street has come to symbolize to many people the insecurity of living in crowded urban environments.

I don't want to overemphasize these statistics or to play upon people's fears. It would be easy to do so because people are already afraid and are prepared to accept arguments that give them more cause for fear. I also recognize that the statistics may give a distorted picture of the problem, representing changes in the level at which crime is reported as well as the level at which crime occurs. Yet those qualifications do not offer us much solace.

We are brought face to face with the problem of violence and we must discover new methods to bring it under control. Even the best we can offer, we must concede, will not bring an immediate end to the violence. And achieving our best will undoubtedly take time. Yet we must try to act immediately to counter a dangerous trend in our cities, in which citizens, skeptical of the government's ability to protect them, seek to guarantee their personal safety through a terrible balance of force. The idea that individual security depends on an armed standoff between citizens threatens the very heart of civilized society.

That idea threatens the legal system directly because faith in the law -- in its effectiveness and in the fairness and decency with which it is enforced -- forms the foundation of obedience to the law. Faith in the law has also been called into question recently by a wave of cynicism about the way law is enforced. To counteract the cynicism and in that way restore some of the law's

effectiveness we must all by our conduct exemplify the evenhandedness and kindness of American law. We must show Americans the law is something in which they should believe. But that effort, while it is absolutely necessary, will not make an immediate change in the pattern of violence.

It would be comforting to know precisely what forces and conditions cause crime. But we must do without that comfort because we don't really know all the causes. Even when we think we have isolated a cause, it isn't at all clear what we can do to remedy it. To be sure, economic hardship, dissatisfaction with the quality of life, and deterioration of social institutions have had a devastating effect on obedience to law. These are fundamental matters that shape the morale of the people. Some have argued that our approach to the problem of crime must center exclusively on these matters. And they have found a contradiction between trying to remedy these social problems and trying to strengthen the deterrent impact of the criminal law. I deny that there is any incompatibility.

People's morale depends in part upon their faith in the law's ability to protect them. To reduce their fear of violence is to increase their real wealth. Likewise the decline in the deterrent force of the law impoverishes us all. Chaos in the criminal justice system makes it unlikely today that an offender will receive a punishment commensurate with his crime, and that has

reduced the deterrent effect of law drastically. An unpublished study conducted in one major American city showed that only four per cent of the persons arrested for a felony were actually convicted of that felony. Even fewer ever went to prison. FBI statistics show that there are only 19 arrests for every 100 serious crimes reported. And recent research by the Law Enforcement Assistance Administration indicates that in some categories of crime many occurrences are never even reported to police by the victims. When people know that the odds of punishment for criminal conduct decline at every level of the criminal justice system because of inefficiency and disorganization, the deterrent value of punishment is minimal. The deterrent power of the criminal law depends not so much upon the severity of punishment as it does upon the swiftness and certainty with which punishment follows the crime. Finding ways to strengthen this deterrent impact is extremely important.

While we must make our best efforts to discipline and strengthen the criminal justice system and to restore the quality of life in our cities, these things cannot be accomplished rapidly and when accomplished may still not quickly reverse the increasing incidence of violence.

The effort against crime must involve many new techniques because the problem involves many facets, but we can concentrate on the facets one by one. Tonight I would like to discuss one

element of the problem of urban violence. The handgun has become the common denominator of much of the violence that besets us. The stock of handguns in the United States has been estimated at more than 40 million, and that number increases each year by about 2.5 million. The handgun, in itself, is nothing but a relatively simple machine. In some circumstances the handgun is not socially troublesome. It can be used for sport. It can be used in the wilderness for self-protection. Nevertheless, in crowded urban areas the handgun has become a medium of terror. More than half of the murders in America -- perhaps 10,000 in 1973 -- are committed by persons using handguns. About one of every four aggravated assaults and one of every three robberies involves a handgun. In the decade ending in 1973 a total of 613 policemen died of wounds inflicted by handguns. And apart from those statistics, handguns carried on the streets of our urban centers have become the focus of fear. While handguns have reaped great carnage, they have sown an even greater anxiety.

A handgun makes an individual in a city too powerful for his environment. It is a menace because it can be so readily hidden. It is a mechanism that translates passion or a passing evil intent into destruction. The possibility, or in some neighborhoods knowledge, that people roam the streets with handguns in their pockets has called into question the safety of even venturing out from behind locked doors. And the fear of handgun violence has provoked people to purchase their own handgun for

self-defense, causing a proliferation of arms that aggravates the basic problem. In short, handguns pose a great threat in cities beleaguered by violence.

Most states have some form of gun control law, ordinarily regulating the place and manner in which firearms may be used and setting some limits on the people to whom handguns may be sold. Only two -- New York and Massachusetts -- have strict laws. Many cities have tough firearm registration or licensing laws. The latest federal statute, passed in 1968, requires manufacturers, importers and dealers in firearms to obtain a federal license. It prohibits them from selling to persons they have reason to believe are convicted felons, persons under indictment for a felony, fugitives from justice, addicts or adjudicated mental defectives. It also requires some record-keeping by gun dealers. And it bans the import, though not the manufacture, of cheap handguns, the so-called "Saturday night specials." Those state, local and federal laws have proven to be insufficient.

While the 1968 federal law has made it difficult for anyone to purchase a cheap imported handgun, it has not prevented anyone from buying a similar weapon manufactured or assembled within the United States. A person who lives in a city that has a law prohibiting him from buying a handgun need only travel a short distance -- often only across the street into a suburb -- to purchase a weapon legally. The federal law requires licensed gun dealers to keep records of purchasers of handguns, but it does not require the same of individuals who sell or transfer weapons

but don't make a business of it. Consequently there are no universal records of gun ownership. That makes federal prosecution difficult. And it hampers efforts to trace the origin of weapons used in crime. In state and municipal courts, the crushing burden of other criminal cases leads prosecutors and judges to give low priority to the proper adjudication of gun law violations. Finally, judges often hesitate to impose criminal sanctions on people whose only offense is carrying a weapon for self-protection.

Finding current gun control laws ineffective, the mayors and police chiefs of many major cities, the executive director of the International Association of Chiefs of Police, the United States Conference of Mayors, the Director of the Federal Bureau of investigation, and many other knowledgeable officials and groups have called for further restriction on handguns. Yet since 1968 no new major federal legislation has been passed.

The idea of gun control generates strong feelings. Some oppose it because they fear they will be stripped of their only defense against violent criminals who would otherwise prey upon them. Others urge that there is a constitutional policy of government restraint in regulating firearms reflected in the Second Amendment, which states, "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." Gun control is criticized as missing the point because weapons alone do not

cause crime. Many of the objections to gun control, however, simply do not reflect the conditions of modern urban life. They are based on an American style of living that no longer exists in the places where people have congregated to live. And while it is easy to sympathize with those who want handguns to protect themselves from others who have handguns, it is obvious that they contribute to the unacceptable proliferation of handguns in the cities.

The test of our government may lie in its ability to open thoughtful discussion on issues marked by deep emotional divisions. I want to use this occasion to try to do just that, for there is much to talk about.

Proposals relating to handguns range from total prohibition of manufacture and sale coupled with confiscation of existing privately-held handguns to the repeal of all laws that currently place limits on weapon commerce and ownership. In between those extremes there have been proposals for national registration of handguns, for national licensing of handgun owners, and for tightened enforcement of current handgun controls.

Any realistic proposal for federal regulation of handguns must take into account the interests of the opponents of gun legislation. Some people may say that for that reason any new federal gun control law will be less than perfectly effective. The accommodation of strong competing interests almost always results in something different from what any single interest desires. And yet the accommodation required by our system of

government can accomplish something useful.

One approach to handgun control we have been discussing is designed to eliminate the so-called "Saturday night specials." These cheap, low-quality handguns pose a special threat simply because they are so inexpensive and so accessible to anyone willing to pay twenty or thirty dollars for a large measure of deadliness. They are the handguns most commonly used in crime. A study by the Treasury Department of more than 4,500 handguns used in crimes in four major cities indicated that 70 per cent were "Saturday night specials." The main problem in prohibiting these cheap and dangerous machines lies in defining their characteristics. We believe that an effective test can be devised to define these weapons with sufficient clarity. It would include a variety of factors such as overall size and barrel length, the presence of safety features, the metallurgical quality of the weapon's parts, and the performance of the handgun after being subjected to various strains.

Banning manufacture and sale of "Saturday night specials" would begin to remove from circulation the kind of handgun most often used in urban street crime. Short of prohibition, a taxing system could be developed to price this variety of weapon out of existence. The only advantage purchasers see in these low-quality weapons is their low price. A graduated tax

could be designed to bring the price of every handgun up to some specified level. For example, a \$25 handgun could be taxed \$75, a \$75 handgun could be taxed \$25, and a \$90 handgun could be taxed \$10 to make the cheapest available handgun cost no less than \$100. If enforcement efforts cut off the development of a black market in cheap handguns, economic forces would quickly make it unprofitable for anyone to manufacture "Saturday night specials."

But "Saturday night specials" are not the only weapons on the street, and a ban on their manufacture and sale would not eliminate the threat caused by existing handguns -- cheap or expensive. "Saturday night special" proposals do not discriminate between areas of the country where the need for control is greatest and the vast areas where handguns pose less of a threat. Also, it is hardly opening new vistas of discourse to come to you with suggestions about controlling cheap handguns. That idea has been around for some time. A proposal to implement it passed the Senate in 1972. The Department of Justice has on more than one occasion supported the idea of controlling "Saturday night specials," and President Nixon offered some support for it in 1973.

A newer approach to handgun control is to design a mechanism which includes strong sanctions against violators but which strikes only in places where the need for handgun control has been clearly demonstrated by a critical level of violence. At the Department of Justice we have been sketching out ways in

which such a mechanism might operate.

We began by concentrating on urban centers where the problem of handguns is most critical. The Standard Metropolitan Statistical Areas designated by the Office of Management and Budget are a convenient tool for defining the limits of the areas in which our proposal might operate. Those statistical areas all include a central city with a population of 50,000 or more and surrounding political subdivisions. Preliminarily, we have discussed a mechanism which would be set into operation either by a local violent crime rate significantly higher than the national average or by a high local violent crime rate coupled with a significant increase in the local rate of violent crime over the course of a year. For example, assume that the mechanism had been put into effect in 1972 and assume that the system provided federal controls in a local area if its violent crime rate was either 20 per cent higher than the national average or both 10 per cent higher than the national average and five per cent higher than the previous year's local rate. Under these assumptions, a federal gun law designed to go into effect in limited geographic areas would have applied in 62 Standard Metropolitan Areas including New York City, Washington, D.C., Chicago, Baltimore, San Francisco, and Los Angeles.

The formula could be adjusted, of course. For example, the mechanism might only apply to Standard Metropolitan Statistical Areas with core cities whose population exceed 250,000. Under the assumptions I mentioned just a moment ago, only 27 relatively

large metropolitan areas would be covered by such a mechanism. Perhaps some metropolitan areas would want to be covered but would not be under either hypothetical formula I have described. Perhaps both of the formulas are over-inclusive. The point here, though, is the broad idea and not the technical details.

In areas where the violent crime rate has reached the critical level, this proposal would ban the possession of handguns outside the home or place of business. It would apply to all handguns, not simply "Saturday night specials." It would ban the sale or transfer of handguns and handgun ammunition in the relevant metropolitan areas and also prohibit importing handguns into the metropolitan area, except in certain circumstances in which the guns are imported for the use of law enforcement or other strictly defined security personnel exempt from the law.

In these critical crime areas an owner of a handgun would be required to obtain a special permit of extremely limited duration if he wanted to transport his weapon outside his home or business for a legitimate reason. Handguns could be used at target-shooting clubs if they were kept in secure arsenals at the clubs.

It is well to remember that the areas in which these federal controls would apply are those which generally want strict controls the most. They are the areas which need

controls the most. And they are the areas that suffer the most from the lack of effective national regulation over the interstate transportation of handguns. The regional approach I am outlining avoids more drastic nationwide measures such as registration and licensing, but it strikes no less than they do at the illegal commerce in weapons. It strikes not at the moment a handgun crosses a state line but rather at the end of the line of commerce when the weapon has reached the hands of an individual who is the reason for the commerce in the first place. It strikes at the moment when the weapon is most deadly.

There are many variations that can be built upon this regional critical crime rate mechanism. It could include a high civil penalty plus confiscation of the weapon for the first violation of the possession or transfer provisions. This kind of penalty, we believe, would be stiff enough to deter violation. But because it would be a civil penalty, judges would not hesitate to impose it on otherwise law-abiding citizens. A second offense could carry a short prison term and a third offense and any violation of the gun-running provisions of the law could carry a stiff criminal penalty.

These penalties -- indeed all features of this proposal -- could be modified. But in discussions with U.S. Attorneys and other law enforcement officials, most have told us that this gun control mechanism could have a significant effect on urban gun crime. They have offered suggestions. Some have suggested,

for example, that a civil penalty for the first offense is not enough because prosecutors would not take seriously a law providing such a mild sanction. We are considering their suggestions, but they do not go to the essence of the regional approach.

As one final consideration, a gun proposal of the sort I have just outlined may not be effective unless it were imposed for a period of years once crime in a metropolitan area reached critical levels. If the federal law were to switch on and off with slight changes in the crime rate, we believe that the important deterrent effect which stems from the certainty of its enforcement would be lost. In addition, the benefits of a federal law would not flow instantaneously but would only occur when a lasting pattern of strict enforcement becomes clear. Nevertheless, the mechanism could be designed to free a metropolitan area of federal handgun regulation once the crisis level of violence had clearly passed.

This proposal has several advantages. Because it would cover not only central cities but also the suburban regions around them, it would avoid the problem encountered in so many cities whose neighboring suburbs do not control handguns strictly. The federal law could reduce the possibility of crossing the street from a city into a suburb to purchase a lethal handgun whose sale had been banned in the city. It could change people's habits with respect to handguns. And a change in the habits of a society can make the crucial

difference in its conduct. Finally, it would leave unaffected the use of handguns in vast areas of the nation, in cities where violence has not reached emergency proportions and in rural areas where handgun use is both less threatening and more legitimate.

The handgun control proposals I have discussed tonight are only a small part of the universe of social inventions we could design to stem the spread of firearms. Gazing at a universe can be rather frightening sometimes because it involves seeing such a limitless range of possibilities. In the past we have often avoided this sense of vertigo by seizing upon one idea, reducing it to the language of legislation, then trying to sell it in a market that encompasses deeply divided interests. And in the past we have often failed. I reject the idea that the universe of possibilities for controlling handguns is foreboding. I believe it makes for a great challenge because it offers so many opportunities for thoughtful discussion and compromise.

I am calling upon you tonight and upon other law enforcement officials as well as representatives of all sides of the gun control controversy to join with the Department of Justice in conversations that can lead to legislation to stem the violence in our cities. The dangers to our society posed by uncontrolled violence are simply too great for us to fail to act.

I have concentrated tonight on only one approach to the problem of urban violence. Of course, we must design other

approaches, other social and legal inventions to increase the efficiency of the criminal justice system -- the police, the courts, the system of corrections. I believe that if we use our best wisdom and our most resolute spirit we will be able to fashion those inventions. I chose tonight to talk of only one facet of the problem because handguns are such a basic factor in violence and the declining morale in our cities and also because finding a means of controlling handguns challenges our democratic institutions to produce a compromise measure that can still be effective.

The control of handguns is a terribly difficult problem that generates deeply emotional responses in all quarters. But it is also central to the horrible insecurity affecting so many of our cities. I need your advice and participation in the discussions I hope will begin in good faith on the subject of handgun control. And I pledge my cooperation and the cooperation of the Department of Justice in your efforts to bring peace to your communities.