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Two Views of Maryland's Proposed Gun Law:

A Unique Approach to Handgun Control

By Vincent Demarco, Esq.

On May 23, 1988, Maryland enacted the first state law in America prohibiting the manufacture and sale of Saturday Night Specials and non-detectable handguns. This November, while the eyes of the nation are watching, Maryland voters will either affirm or repeal this landmark law. To cast informed votes, Marylanders need to know why Saturday Night Specials and non-detectable handguns should be banned and how Maryland's law accomplishes this goal.

I. THE PROBLEM.

A. Saturday Night Specials.

Between 1980 and 1986, 1295 Marylanders were murdered with handguns. Many of these victims were killed with low-quality handguns which cannot be used for legitimate sporting, self-defense, or law enforcement purposes and are only of use to criminals. It is these crime guns, commonly known as "Saturday Night Specials," which are banned by Maryland's new law.

Saturday Night Specials first became a focus of major public attention in 1968 when Senator Robert Kennedy was gunned down by a .22 caliber Iver Johnson with a 2-1/2 inch barrel. In response, the United States Congress passed a law banning the importation of weapons, such as the one which killed Senator Kennedy, which could not be used for legitimate sporting purposes but were often used by criminals. Ironically, however, Congress did not ban the manufacture or sale of

these same guns in the United States. Consequently, one effect of the 1968 law was a dramatic increase in the domestic production of Saturday Night Specials. Since 1968, there have been several unsuccessful attempts in Congress to ban the domestic manufacture and sale of Saturday Night Specials. See generally, Cook, *The "Saturday Night Special": An Assessment of Alternative Definitions from a Policy Perspective*, 72 J. Crim. L. & Criminology 1735 (1981); Sherrill, *THE SATURDAY NIGHT SPECIAL* (1973).

Congress has failed to act despite abundant evidence that low-quality handguns are only of use to criminals. New York City Police Commissioner Patrick V. Murphy testified before Senate Judiciary subcommittee of the United States Senate in 1971 that:

There is absolutely no legitimate reason to permit the importation, manufacture or sale of...[Saturday Night Specials]. They are sought only by people who have illicit motives, but who may have some difficulty securing a better gun. No policeman, no Army officer, no security guard, no businessman or merchant, and no sportsman would purchase one of these weapons for any lawful purpose.

Hearings on S.2507 Before the Juvenile Delinquency Subcommittee of the Senate Judiciary Committee, 92nd Congress, 1st Session at 177 (1971).

This sentiment was echoed by Maxwell Rich, Executive Vice President of the National Rifle Association ("NRA") who tes-

tified before the same subcommittee that:

[Saturday Night Specials]...have never to my knowledge been accepted for advertising in our official journal, the *American Rifleman*. Our reason is that they have no sporting purpose, they are frequently poorly made, and they do not represent value received to any purchaser.
Id. at 315.

During the debate on Maryland's new law, referred to simply as "House Bill 1131", the NRA's chief spokesperson, Senator Raymond Beck (R-Carroll County), readily conceded that there are handguns which have no legitimate purpose. He even listed examples of handguns which are so low-quality that they should be banned. Senator Beck quoted from a magazine entitled *Handgun Tests* which listed and described twelve "unacceptable" handguns, including:

The RG-26 .25: If this were someone's middle finger and not an unfired .2 [caliber handgun], we could laugh... This is a totally useless junker that no decent gunsmith would work on except for laughs.

The FIE Guardian .25: The name Guardian is especially repulsive of this malfunctioning piece of junk. I feel sorry for the people who might buy this gun and carry it around. It probably would be purchased by a senior cit-

(continued on page 8)

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izen on a fixed income who is looking for a cheap gun. This is cheap, so cheap in fact that it is totally unreliable. It should be called the Jammer!

The FIE-The Best .25: The Best is one of the best of the unacceptables. . . This is made in Florida and does not have to meet the [1968 Gun Control Act] rules for being imported. The gun control laws now confine us to built in American trash!

The RG-14 .22LR: The RG-14 is totally unacceptable. The firing pin does not have enough push to dent the rims of the cartridges and they will not fire unless the gun is pulled through twice. If you can handle pulling the trigger 12 times to get 6 shots, you will love this little, useless revolver.

Handgun Tests, Published by RPM Sales Corp. (1979) at 31-33.

While low-quality Saturday Night Specials are plainly "unacceptable" for use by law-abiding citizens, they can be and are used by criminals. If someone intends to ambush a convenience store clerk or shoot a public official at short range, they are much more interested in concealing the handgun than in the accuracy or reliability of their weapon. This contributes to the reason why the small, lightweight Saturday Night Special, otherwise known as a "belly gun," is frequently the criminal's weapon of choice.

One frightening use of a Saturday Night Special is as a "beeper-gun." The Baltimore City Police Department recently warned its employees in an "ALERT" that a .22 caliber Saturday Night Special with a 2.5 inch barrel was being concealed in the square plastic case of a personal pager. As the "ALERT" explains, "the weapon can be cocked and fired without being removed [from the pager]." Certainly a weapon such as this would be an ideal tool for terrorists.

Although it has been established that Saturday Night Specials are used in crimes (Robert Kennedy and Ronald Reagan being among the more prominent of victims), estimates vary as to how frequently these guns are used by criminals. In an exhaustive study in the mid-seventies of 7,538 handguns used in crimes around the nation, the Federal Bureau of Alcohol, Tobacco, and Firearms ("BATF") found that forty-five percent of these handguns were the type of low-quality weapon which could be categorized as a Saturday Night Special. *PROJECT IDENTIFICATION: A Study of Handguns used in Crime*, Bureau of Alcohol, Tobacco, and Firearms of the U.S. Department of the Treasury (1976).

In a November 30, 1987, letter to the Department of Public Safety and Correctional Services, the Baltimore City Police Department found that almost 34.2% of crime guns were small .25 and .22 caliber handguns which are very often Saturday Night Specials. Based on their own analysis of confiscated guns, the New York City Police Department estimated that about 24% of the handguns used in New York crimes would be considered Saturday Night Specials. *Hearings on S.2507, supra*, at 177.

Based upon the BATF's findings, approximately 502 Marylanders were killed with Saturday Night Specials between 1980 and 1986. Even if the Baltimore City Police Department's 34% figure is more accurate for Maryland, that would mean 440 Marylanders killed with handguns which have no legitimate use. (Emphasis added).

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Clearly, weapons of this type used primarily for the commission of crimes should be banned.

B. Non-detectable Handguns.

In April 1976, before the Baltimore City government offices were protected by metal detectors, a deranged man with a concealed handgun entered those offices and shot several people. One victim, Councilman Dominic Leone died almost immediately, and another, Councilman J. Joseph Curran, Sr., suffered a heart attack at the time and died ten months later.

As a result of these and other similar tragedies, metal detectors and X-ray scanners have been installed at courthouses and airports throughout Maryland and the nation. These security systems are working. According to the Federal Aviation Administration, since 1973, security devices at U.S. airports have detected 37,716 firearms resulting in approximately 16,000 arrests. *Semi-annual Report to Congress on the Effectiveness of the Civil Aviation Security Program* (1987). At the Baltimore-Washington International Airport alone, twenty-eight handguns were

detected and confiscated in 1985, nineteen in 1986 and fifteen from January to December of 1987. At the federal court house in Baltimore, according to a December 6, 1987 letter, from US Marshall John Spurrier to Attorney General Joseph Curran, twelve guns have been confiscated since 1983 as a result of the detection devices. In Baltimore County alone, the sheriff's office reports that they confiscate twenty to thirty illegal handguns a year at the courthouse. See Testimony of Attorney General J. Joseph Curran, Jr. before the *Subcommittee on Crime of the Committee on the Judiciary of the United States House of Representatives*, (1987) (Testimony of J. Joseph Curran Jr., Attorney General of Maryland).

While metal detectors and X-ray scanners provide significant protection for our public buildings and airports, it is now evident that there exists a growing threat to the effectiveness of these security devices from the development and proliferation of handguns which security systems cannot readily detect. The technology now exists to create handguns which are almost entirely plastic, and therefore not detectable by standard security devices. The proliferation of these weapons, of particular use to terrorists, would totally undermine the effectiveness of airport and courthouse security devices and make them vulnerable to the kind of terror which occurred in the hijackings of the early 1970's and the 1976 Baltimore City shootings. Maryland's new law would prohibit the use or manufacture of these plastic guns before one of them is used to hijack a plane or terrorize a courthouse.

II. THE SOLUTION — MARYLAND'S NEW LAW

Maryland's new law creates a nine-member Board which will determine which types of handguns can be used for legitimate law-enforcement, sporting, or self-defense uses. The Board will place these handguns on a Handgun Roster which will be available to the public and will be distributed to gun dealers twice a year. After January 1, 1990, no person in Maryland may either manufacture any handgun not on the Handgun Roster, or sell or offer to sell any handgun not on the Handgun Roster manufactured after January 1, 1985. The Board will consist of the following nine members: the Superintendent of State Police who will be the Chairperson; representatives of the States' Attorneys' Association, the Maryland Association of Chiefs of Police, Marylanders Against Handgun Abuse, the National Rifle Association, and a Maryland gun manufacturer; and three cit-

izen members appointed by the Governor with the advice and consent of the State Senate.

Any person may petition the Board to place a particular handgun on the Handgun Roster, and may appeal a Board decision not to place their handgun on the Roster to a circuit court. Any person who manufactures a handgun in violation of this law may be fined up to \$10,000 per handgun. Any person who sells or offers to sell a handgun in violation of this law may be fined up to \$2,500 per handgun. Any gun dealer who sells a handgun not on the Roster is subject to revocation of his dealer's license to sell guns.

This statute was approved overwhelmingly by the General Assembly, by a margin of 35-10 in the State Senate and 95-41 in the House of Delegates. Legislators from around the state supported the law, including many who have made clear their opposition to any bill which would limit access to *all* handguns. (Emphasis supplied).

Legislators were greatly influenced by the strong stand of the state law enforcement community for the law. The Superintendent of State Police, Elmer Tippet, many local chiefs of police, (including Baltimore County Chief Cornelius Behan), the Fraternal Order of Police, and the

State Troopers' Association lobbied intensely for the law's passage and strongly opposed the effort to overturn it. The law enforcement community knows from experience that Saturday Night Specials kill and that they are useless for self-defense. They have seen officers and citizens killed by them, and they have seen citizens harm themselves and loved ones by trying to use them.

Legislators approved the procedure set

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out in the law because it is effective and fair. People who know about guns will determine which guns can safely be used for legitimate purposes and ban those

which cannot. For twenty years the BATF has been doing very much the same thing by determining which handguns can be used for sporting purposes and allowing only those to be imported into this country. By learning from the BATF's experience, the expert Board, created by Maryland's law, can protect Marylanders from those low-quality handguns which are only of use to criminals.

CONCLUSION

Maryland's new law is a unique and well-crafted approach for banning Saturday Night Specials and non-detectable handguns. It will save lives by preventing the manufacture and sale of these weapons of crime without affecting in any way handguns which can be used for legitimate purposes. Maryland voters should join the vast majority of their elected representatives and the law-enforcement community in supporting it.

Vincent DeMarco is a Baltimore attorney who has been involved in many efforts to ban the sale of Saturday Night Specials in Maryland. He currently is Chairman of the political action group — “Marylanders Against Saturday Night Specials.”

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