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PROPOSED Firearm Policy Recommendations

Policy Recommendation: RAISING AWARENESS Through COMMUNITY EDUCATION

Raise awareness and educate the community about firearms and resources for suicide prevention.

Purpose:

Different issues were set forward as necessary awareness/education campaigns, including: suicide prevention (availability of prevention resources, warning signs), hazards of firearms, living safely with guns, training, safe storage, existing legislation.

Policy Recommendation: END USER SALES TAX

Implement an 'end user sales tax' - tax paid directly by the purchaser for firearms and firearm-related (e.g. ammunition) products.

Purpose:

Tax revenues would be designated for firearm-related community awareness and education campaigns.

The group considered a gross receipts sales tax, but concluded that a gross receipts sales tax was unfair to merchants who sell firearms as a small fraction of their business.

Policy Recommendation: MANUFACTURING CRITERIA FOR SALE OF HANDGUNS

Develop a viable, enforceable ordinance that will help reduce availability of poorly constructed, easily concealable weapons. The Sheriff should be asked to convene local law enforcement agencies to review the ordinance for enforcement issues.

Purpose:

Reduce availability of poorly constructed, easily concealable weapons.

The group had considered a ban on the sale of so-called Saturday Night Specials/Junk Guns. Arguments stating that the ban was difficult to enforce (for a variety of reasons), resulted in the above policy statement. The 1968 Gun Control Act and the West Hollywood Ordinance could serve as potential models - because both have some limitations the above policy recommendation was developed.

Policy Recommendation: DEALER ORDINANCES
Pass an ordinance affecting firearms dealers in the following areas:

- Zoning & Permits:
  Requiring firearms dealers to conduct their business in commercial areas (expressly prohibiting any residential gun dealers in neighborhoods) and requiring a land use permit (which entails a public hearing and a police permit).

  Restricting residential gun dealers from sensitive areas: schools, day care centers, high concentration of alcohol outlets etc. Ordinance could include a grandfathering clause for existing dealers.

- Requiring all dealers to carry liability insurance.
- Prohibiting individuals with criminal records from selling firearms and prohibiting firearms dealers from obtaining a permit to sell firearms if that dealer and/or any of its agents, officers or employees are prohibited from possessing firearms under CA Penal Code. This would apply to agents, officers or employees directly handling/selling firearms and related products.
- Requiring a trigger lock or safety device to be ~~offered~~ Provided with the sale of each gun.
- Allowing dealers to sell ammunition only to those individuals licensed to own firearms. Require purchasers to show legal proof of firearm ownership. Ammunition purchases can only be made that match guns showing legal proof of ownership.

Purpose:

To help monitor the large number of dealers and ensure these transactions are carried out in a manner that ensures the safety of the dealer, neighboring businesses and individuals, the consumer and the general public. To help ensure that only legal firearms owners have access to ammunition.

Handguns → registration, ammo registration

Policy Recommendations: GUN OWNER ORDINANCES
After work group discussion, and discussion by the Policy Committee co-chairs it was determined that it would be too difficult to enforce ordinances directed at gun owners. These issues were redirected to the policy recommendation around public awareness & community education to consider community education campaigns around safe storage, training, etc.

Policy Recommendation: AGENCY COLLABORATION
Support collaborative efforts to leverage off existing efforts, decrease replication and reduce violence through coordinated efforts.

Purpose:

Implement projects/efforts similar to that of the Boston Gun Project, which relies on strong interagency collaboration to reduce youth & gun violence.

Ask that the Sheriff convene a regular meeting of local law enforcement agencies to ensure cross jurisdictional collaboration where necessary and possible (e.g. enforcement of SNS ban at San Jose-based but County-governed fairgrounds).

Policy Recommendation: Support Adoption of State/Federal Laws

1.

A comprehensive licensing and registration law which would require every firearm to be registered, and every person who wishes to possess a firearm to be licensed. It should include the following basic components:

a. The CA penal code is inconsistent in charging dangerous weapons violations as misdemeanors, misdemeanor/felonies, or felonies. Carrying concealed metal knuckles, blackjacks or certain knives may be charged as a felony, whereas a concealed loaded gun without a permit is subject only to misdemeanor charges. Recommend legislation making the unlawful purchase, sale, possession or use of a firearm chargeable as a misdemeanor **or a felony** and accompanied by a lifetime prohibition of firearms possession after conviction.

b. Different licensing and registration requirements for different classes of firearms from rifles and shotguns which have recognized sporting or recreational uses (easy to obtain and lasting in effect), to handguns (require some showing to obtain and renew annually), to firearms with no recognized sporting or recreational uses such as assault weapons (require a showing of great need, restrictions on place and types of uses allowed, annual renewal). Standardization of training components for different licensing components.

c. Basic licensing criteria for any weapon such as personal qualifications (i.e., no record for crimes of violence, no mental health problems or history of substance abuse), demonstrate knowledge and proficiency in firearm use and storage.

2.

Place gun manufacturers under consumer product manufacturing safety standards and provide adequate funding.

Purpose:

Although the State of California preempts registration or licensing, it is important to show support for these measures at a local level.

Pros & Cons - Proposed Firearm Policy Recommendations

The following "pros" and "cons" reflect some of the opinions and materials presented to the firearms policy work group as well as some of the discussions about the policy recommendations. The group engaged in a series of meetings and was provided with significant amounts of information about a range of firearms issues. The pros and cons listed below do not cover the breadth of information the work group covered, they only present some of the views raised during the process.

RAISING AWARENESS THROUGH COMMUNITY EDUCATION

Raise awareness and educate the community about firearms and resources for suicide prevention.

Specific topics discussed include suicide - offering information about access to help for suicidal individuals.

Although, there was general agreement that awareness and education campaigns were valuable. However, there was not consensus as to the content of these campaigns. There were primarily three diverging approaches: 1) messages should take a neutral approach to guns and gun ownership and center on responsible gun ownership, existing laws, safety measures, and how to live safely with guns, 2) messages should center on the inherent dangers of gun ownership especially in the home.

PROS

Community education and awareness can be an integral tool in a larger effort to change community values, norms or attitudes. Campaigns can raise awareness about issues and educate communities on how to make their environments safer.

Surveys have shown that a public aware of the disruption guns cause in the community is more likely to support measures to reduce gun-related violence (Johns Hopkins, 1996; EDK Associates, 1995).

Public awareness campaigns can be used to reduce firearm violence without the need for new legislation.

CONS

The recommendation falls on a bad premise - that is that guns equal violence. Concern that campaigns make an automatic link between firearms and violence.

Pros & Cons - Proposed Firearm Policy Recommendations

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END USER SALES TAX

Implement an 'end user sales tax' - tax paid directly by the purchaser for firearms and firearm-related (e.g. ammunition) products.

Tax revenues would be used for community awareness and education campaigns.

The group considered a gross receipts sales tax, but concluded that a gross receipts sales tax was unfair to merchants who sell firearms as a small fraction of their business.

PROS

Revenues could be used to pay for education and awareness campaigns.

Taxpayers pay about 80% of the cost of treating gunshot wounds, the cost of which can range from $6,000 - $200,000. Tax revenues will help to defray those costs.

Examples from tobacco and alcohol show that raising taxes on deadly products decreases availability - especially to youth. Firearms are one such deadly product. The revenues can then be used to combat the ill effects (e.g.: tobacco) of the product.

In San Leandro a tax on concealable weapons and ammunition in was passed in June 1998.

CONS

There are no best practices showing that taxes would help reduce gun violence.

It would take a two thirds majority of voters to pass a special tax. Concern about constitutionality of taxes - would likely be challenged in court.

Unfair to individuals opposed to all taxes in general.

These taxes would only cover unincorporated areas of Santa Clara County.

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MANUFACTURING CRITERIA FOR SALE OF HANDGUNS

Require that all handguns sold in Santa Clara County meet the same minimum manufacturing requirements of handguns imported into the US, based on the 1968 Gun Control Act.

The group had considered a ban on the sale of so-called Saturday Night Specials/Junk Guns. Arguments stating that the ban was difficult to enforce, resulted in the above policy recommendation. These standards were imposed on importation of guns in 1968 at that time the NRA supported these criteria.

PROS

SNS guns are unsafe, easily concealable, disproportionately used in violent crime - a ban on sale of junk guns would help reduce their availability.

— These types of guns are banned from importation - if banned from importation because of quality and safety concerns, should not then be allowed to be manufactured and sold domestically. Apply federal standards from 1968 Gun Control Act.

SNS ban is being implemented in jurisdictions throughout Bay Area. Is best ordinance around, not perfect, but has/is being tested in courts. Santa Clara County is surrounded by jurisdictions in the greater Bay Area with a SNS ban in place. A ban would bring Santa Clara County up to speed with majority of Bay Area jurisdictions.

The Supreme Court has not found that the Second Amendment guarantees an *individual's* right to bear arms, rather it has found that in context of a "well-regulated militia, being necessary to the security of a free State" the Second Amendment right refers to an organized, well-regulated body.

CONS

SNS ban infringes on First and Second amendment rights.

Bans on SNS are unfair to poor individuals - it's an issue of equity.

Model ordinances are too vague, difficult to enforce. Difficulty of defining what constitutes a junk gun/SNS. Applying definition of San Jose ordinance would put regular duty guns of law enforcement agents on the SNS list.

— These guns are suitable for women because they are small and can be handled by smaller people - banning them is discriminatory.

Currently enough gun control legislation - SNS bans are the first step toward confiscation of all guns.

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DEALER ORDINANCES

Pass an ordinance affecting firearms dealers in the following areas:

- Zoning & Permits:
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- Requiring all dealers to carry liability insurance.
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- Requiring a trigger lock or safety device to be offered with the sale of each gun.
- Allowing dealers to sell ammunition only to those individuals authorized to own firearms. Require purchasers to show legal proof of firearm ownership. Ammunition purchases can only be made that match guns showing legal proof of ownership.

PROS

The large number of residential gun dealers make it difficult for the Bureau of Alcohol Tobacco & Firearms to adequately monitor all dealers to ensure adherence to registration and sales criteria.

More difficult to regulate residential dealers, in part do not always keep regular store hours. Past analyses of firearm dealers have indicated that not all firearms dealers operate within the laws including: noncompliance with state licensing (50%); lack of a State Certificate of Eligibility rendering a gun dealer unable to perform a background check (DROS) as required by the Penal Code.

Ordinances are designed to preserve residential quality of the neighborhood. For at least one third of SCC federal firearm licensees it is not immediately obvious they are a gun seller [residents, auto body shops, consultants, etc.].

CONS

Present restrictions covering gun dealers are enough. New laws are not needed, more enforcement of existing laws is needed. No new zoning ordinances needed.

Statistics show that residential dealers do not significantly contribute to illegal trafficking.

Ordinances are designed to put out of business small dealers. There are no statistics showing that residential dealers pose a threat to community.

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AGENCY COLLABORATION

Implement projects/efforts similar to that of the Boston Gun Project, which relies on strong interagency collaboration to reduce youth & gun violence.

Ask that the Sheriff convene a regular meeting of local law enforcement agencies to ensure cross jurisdictional collaboration where necessary and possible (e.g. enforcement of SNS ban at San Jose-based but County-governed fairgrounds).

There was general agreement that increased collaboration is good policy. The group considered the following:

An important component of the Boston Gun Project relied on heavy collaboration across a variety of agencies, particularly law enforcement agencies *without the need for new laws.* Goal is to identify areas with high incidence of firearm violence enforce existing laws in a targeted aggressive manner.

Some existing projects, specifically the Restorative Justice Project, rely on increased collaboration and expanding these efforts and similar ones should be considered.

County should exert leadership and work with city jurisdictions to bring comprehensive ordinances so there is uniformity within county boundaries.

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Support Adoption of State/Federal Laws

1. A comprehensive licensing and registration law which would require every firearm to be registered, and every person who wishes to possess a firearm to be licensed. It should include the following basic components:

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   c. Basic licensing criteria for any weapon such as personal qualifications (i.e., no record for crimes of violence, no mental health problems or history of substance abuse), demonstrate knowledge and proficiency in firearm use and storage.

PROS

Drivers must take a test proving competency - gun owners should be subject to same.

Many handguns not registered - only recently been required to register guns it is a good way to play catch up and get guns registered.

CONS

No best practices were submitted showing effectiveness of licensing and registration.

If firearm been transferred legally, guns can already be traced. No need for increased registration.

No need for license to drive car on private property, there is no justification for requiring registration of guns that can only be kept on private property.

Aimed at harassing law abiding folks, has no bearing on violent criminal can't charge them.

2.

Place gun manufacturers under consumer product manufacturing safety standards and provide adequate funding.

PROS

There are numerous safety standards governing toy guns - there are none governing guns.

Currently, gun manufacturers are exempt from criminal and civil liability and there is no regulation or oversight of the firearm industry by an appropriate governmental body.

US gun manufacturers should minimally come under the same consumer safety and production standards imposed on imported firearms

CONS

The American National Standards Institutes sets gun safety standards for every gun.