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APPENDIX 8

Memorandum by Mr Colin Greenwood

FIREARM CONTROLS IN BRITAIN PART I THE HISTORY OF FIREARMS CONTROLS IN GREAT BRITAIN

EARLY LEGISLATION

1. Early English legislation relating to firearms was concerned only with the duty of the citizen to arm himself for the defence of the realm and for the maintenance of order. Restrictions on the use of firearms were concerned only with the maintenance of compulsory practice with the longbow or with the preservation of game. There was a clear and recognised right, as well as a duty for the subject to have arms for his own protection and to discharge his duty to the state, though those arms would not necessarily have been firearms.

2. The Bill of Rights of 1688 made it clear that Parliament considered that there was a right for citizens to have arms and by the mid 18th century the Common Law was very clear in recognising a constitutional right to have arms which Parliament had no authority to breach in general terms. In the early 19th century, perceived dangers of major disorder resulted in the "Six Acts" amongst which was the Seizure of Arms Act 1820 which appeared to abrogate the right to keep arms. Debates in Parliament made it clear that the Government accepted that there was indeed a right to keep arms but their view was that the Constitution allowed for qualification of that right for a limited period and in specific areas. The Seizure of Arms Act automatically lapsed after two years and was applied only to specified areas of the country. Until the start of the 20th century, therefore, the right to keep arms was vigorously upheld by Parliament and all attempts at legislation to restrict arms generally or firearms in particular failed completely.

3. That aspect of the American Constitution which relates to the right to keep arms is, in fact, no more than a modification of the English Common Law at the time of the American Revolution, the major difference being that the Americans created a written constitution largely because the British has ignored the rights of the colonists, not least in respect of their keeping of arms.

4. So far as is known the peculiar situation of Scotland has not been researched. Parliament may have abrogated any right to keep arms by the Disarming Acts of 1715 and 1746, but the Seizure of Arms Act 1820 applied to Renfrewshire and Lanarkshire, so that by that time Parliament clearly accepted the right to keep arms in Scotland and it may be that the Disarming Acts should be seen in the same constitutional light as the Seizure of Arms Act, as legislation applied for a specific purpose to a specific area.

5. The evidence shows that, despite the existence of an absolute right to keep arms and the very widespread ownership of firearms as evidenced by the state of the gun trade at the time, the use of firearms in crime and disorder was extremely rare.

6. The Pistols Act of 1903 was the first piece of legislation to attempt some control on pistols. It required only that a prospective purchaser provide proof that he held a gun licence available on demand at a post office, or that he was a householder, or was to proceed abroad. Despite its apparent weakness, the Act did have an effect on sales of pistols, though that does not appear to have in any way influenced the low levels of misuse which existed.

7. Specific incidents during the early part of the 20th century prompted various calls for legislation, often supported by statistics which, though in some ways illuminating, are not comparable with modern statistics. Incidents like the Sydney Street Siege resulted in proposals to require licensing of aliens who possessed firearms. None of this legislation reached the Statute Book and, at the time of World War I, firearms were freely available and, for example, officers in the armed forces provided themselves with pistols which they retained when they left. By that time automatic weapons had become available. The Gatling gun had been available from the 1860s and the Maxim machine gun, essentially the same as machine guns in service until very recently, became available in the 1880s. Self loading pistols were available in large numbers including the Mauser, Luger, Colt and various Brownings. The revolvers of the day were, in essence, little different from the revolvers now available.

8. During the early part of this century anyone, respectable citizen, criminal or lunatic, could walk into a gunshop and buy any firearm he wanted. The law prohibited sales to persons who were drunk at the time, and those wishing to buy a pistol would have been required to call first at a post office to obtain a 10 shilling gun licence. Despite that, statistics provided by the Commissioner of Police for the Metropolis showed that the use of firearms in crime was very rare indeed as the following table shows:

RETURN OF FIREARMS USED AND POSSESSED IN CRIME IN LONDON 1911-13 AND 1915-17

	<i>1911-13</i>		<i>1913-17</i>	
	<i>Used</i>	<i>Possessed</i>	<i>Used</i>	<i>Possessed</i>
British	100	76	42	44
Aliens	23	27	5	10
Total	123	103	47	54

9. The figures relate to a three year period and the totals are therefore 41 and 34 cases reducing to 16 and 18 cases per year, on average. They relate to all types of crime, a term which would be very broadly interpreted at that time. The use of firearms in "crime" in London was reduced by two thirds at a period when the male population of the country was at arms and without any real restriction on the sale or ownership of firearms. Whatever caused such a result, it could not have been mere firearms availability.

THE FIREARMS ACT 1920

10. There was grave governmental concern about the vast quantities of arms and ammunition available at the end of World War I and a Committee under Sir Ernley Blackwell reviewed the situation both nationally and internationally. There was concern that arms might reach "savage or semi civilised tribesmen in outlying parts of the British Empire" or the "anarchist or intellectual malcontent of the great cities whose weapons are the bomb and the automatic pistol". The Committee met in private and reported in confidence with no outside consultation save with the police. They proposed firearms legislation based, to some extent, on Home Office proposals of 1911 which had been shelved because of perceived parliamentary opposition. The Blackwell Committee recommended more stringent restrictions, proposing that the right to possess firearms be limited to persons holding a certificate.

11. In respect of shotguns, the Blackwell Committee report said, "Cases are rare in which they are used for any criminal or illegal purpose" and concluded that controls on shotgun would damage industry and cause unemployment. The Report does not provide any statistics to support that view and much of their supposed evidence is anecdotal or incomplete and would not have withstood careful scrutiny. The return from the Metropolitan Police cited above includes all classes of firearm but another return relating to the use of firearms against police over the period 1908 to 1912 indicated that "revolvers" were found to be involved in 34 of 47 cases reported. Wider statistics for crimes such as homicide were not examined yet it seems highly likely from later research that the shotguns would feature in a significant number of homicides.

12. The situation was exacerbated by revolution abroad and civil discontent at home. The diary of the Cabinet Secretary, Thomas Jones, published in 1969 reveals that the Cabinet was extremely concerned about a Bolshevik revolution arising from the industrial unrest and sought information about the numbers of troops and aircraft available for use against insurgents in this country. There was a demand for a Bill to license persons to bear arms. The Home Secretary pointed out that he had such a Bill ready but, "In the past there have always been objections". It was said that, "All weapons ought to be available for redistribution to friends of the Government".

13. It seems that the Blackwell Report would, like all other proposals, have found grave difficulties in Parliament but for the civil

situation at the time. In the event, because of concern about revolution which was never publicly expressed, the 1920 Act was passed with hardly a voice raised against it. Its terms give some semblance of retaining the right to keep arms in the words used, "A firearms certificate shall be granted" etc, but the limitations on the discretion of the police and the burden of proof placed on an applicant effectively negated that requirement. For all practical purposes, firearm certificates were and are issued at the discretion of the police with an applicant being required to establish his case.

14. The definition of shotguns exempted from controls in the Firearms Act 1920 included any smooth bore gun without reference to barrel length and thus included shot pistols.

15. Within months of the 1920 Act coming into effect there were a number of complaints to the Home Office about over-zealous police enforcement. Deficiencies in the Act had to be remedied by amending legislation or some very strong action by the English Courts which the Scottish Courts refused to follow in some instances. In *Cafferata v Wilson* [1936] 53 TLR 34 the English Courts sought to remedy a perceived defect by deciding that something which could not discharge a missile could be a firearm if it had component parts. In *Kelly v Mackinnon* 1983 Scots Law Times 9, the Court in Scotland rejected that method of closing a supposed loophole and refused to follow the judgement on the ground that the English language could not properly be construed in that way.

THE 1934 DEPARTMENTAL COMMITTEE

16. A number of amending Acts had created a need for consolidating legislation and a Departmental Committee was convened in 1934 to consider the definition and classification of firearms. This Committee started a pattern in reviews of firearms legislation which has continued. There was no statement of the objectives of the legislation, or of whether the existing legislation had served any purpose. There was an assumption that control must be good and any defects would be remedied by further controls. There was certainly no attempt to go back to first principles and try to think through the problem, nor was there any real consultation with those who would be affected by further restrictions.

17. The Committee's report (Cmd 4758/34) recommended a number of changes which were later incorporated into a consolidating Act, the Firearms Act 1937, which preserved all the principles of the existing legislation and introduced only relatively minor corrections. A firearm certificate was required (effectively) for rifles and pistols but shotguns remained entirely outside the system of controls.

SHOTGUNS

18. In considering the question of shotguns in a little more depth the Departmental Committee proposed that any shotgun with a barrel less than 20 inches in length should be brought within the type of control which applied to rifles and pistols and this proposal was given effect in the Firearms Act of 1936 and incorporated into the 1937 Act.

19. In relation to ordinary sporting shotguns, the Committee could find no reason to differ from the view of the 1919 Committee. They noted, however, that shotguns were responsible for more suicides and accidents than any other class of firearm. They also noted that they were used more frequently than other classes of firearm in cases of murder, attempted murder and manslaughter, but they were not the favourite weapon of the bandit and burglar. Unfortunately, the statistics provide no comparison with those firearms subject to controls such as pistols.

20. In the three years ended 28 February 1934 police reported that shotguns of the type now subject to a shotgun certificate had been used in 378 suicides, 28 criminal fatalities, 18 cases of criminal use involving serious injury and 20 involving slight injury, 10 cases of criminal intimidation and 18 cases where the criminal was found in possession. They have also been involved in 161 fatal accidents, 111 accidents involving serious injuries and 101 involving slight injuries. Those figures lack credibility because of the absence of any base figure and because of the doubtful state of police record keeping at the time and may be regarded as anecdotal rather than as something which can be compared to current statistics. The most reliable figures will be those relating to suicide, and criminal fatalities and serious injuries.

21. The Committee commented on the widespread use and ownership of shotguns, particularly in rural areas and concluded that, ". . . the numbers in daily use by private persons far exceeds those of any other type of firearm, [and] the figures in the table are not surprising and cannot be regarded as excessive". They recommended that shotguns should remain outside the system of controls and the 1937 Act excluded shotguns with barrels exceeding 20 inches in length from certificate control.

AIRGUNS

22. The 1934 Committee also considered airguns in depth. They noted that police figures for the three years ended 28 February 1934 showed that air pistols had been used in 43 "criminal cases", six of which involved only intimidation, 36 possession on arrest and in one case "a lunatic shot and injured a baby before committing suicide by setting a house on fire". Air pistols were involved in 84 accidents with nine serious injuries and the remainder slight. Persons under 17 were involved in 70 of the 84 accidents. Airguns and rifles were involved in 4 cases of criminal use, one involving an airgun fired to resist arrest, one found on a person at the time of his arrest and two suicides (then a crime). They were involved in 303 accidents, 1 fatal, 63 involving serious injury and 239 slight injury. In 233 of those cases the person discharging the airgun was under 17.

23. Those figures are not comparable with statistics produced today and it seems highly likely that most of the cases classified as accidents at that time would be categorised as assaults in modern criminal statistics.

24. The Committee felt that the evidence did not justify imposing certificate controls on airguns except those declared "specially dangerous", but the 1937 Act did impose restrictions on the sale or supply of firearms or ammunition (including airguns and airgun ammunition) to those under 17.

25. The rate of armed crime and misuse of firearms had been very low when the legislation was first introduced and remained so. Statistics relating to crimes such as robbery involving firearms were not even collected, a clear indication of the absence of any significant problem. Police administration of the Act seems to have been generally liberal. The only figures available for the period were given in a Parliamentary Reply and showed that in the period 1 July 1936 to 31 December 1937, only 20 persons arrested in the Metropolitan Police District were found to be in possession of firearms and of these 12 had air weapons and one a toy.

POST WAR LEGISLATION

26. The end of World War II appears to have generated concerns similar to those at the end of World War I about firearms brought back by servicemen, but there were changes in the official approach which were illustrated by a number of Parliamentary questions. Despite the fact that almost every male and many female members of the population had considerable experience of firearms and the fact that many uncertificated firearms were in circulation, misuse of firearms in crime and otherwise remained remarkably low. In a debate in the House of Lords on 11 November 1952 it was said that the number of cases in which possession of firearms, whether used

or not, had come to light in the Metropolitan Police District were 1948, 48; 1949, 28; 1950, 39; 1951; 14 and in the first nine months of 1952, 17.

27. The situation remained unchanged for many years and levels of crime involving all classes of firearms including uncontrolled shotguns remained so low that criminal statistics did not distinguish them from other classes of crime. In 1962, a Private Member's Bill was concerned with the use of shotguns and airguns by young people and created the provisions now found in Sections 22 to 24 of the 1968 Act. The Government of the day was lukewarm to the idea and had remained of the view expressed by the then Home Secretary in a reply in 1956, "It has been the view of successive governments that the responsibility for deciding, if at all, and on what conditions children should handle firearms must remain with the parents."

28. No evidence was produced to show that further legislation was needed or that the Bill had been targeted at a defined problem in a manner likely to produce beneficial results.

29. Late in 1960 a review of controls over shotguns and airguns was initiated by the Home Office and the Police and it is clear that this review concluded that no controls were necessary or appropriate though no such announcement was made.

30. A small number of cases involving firearms made newspaper headlines and some of these involved sawn-off shotguns. The matter was raised in Parliament early in 1965 when Sir Frank Soskice, the then Home Secretary, rejected any idea of controls on shotguns, saying, "The Government have considered carefully the possibility of extending to shotguns the firearm certificate procedure, but have decided against it. There are probably at least 500,000 shotgun in legitimate . . . the burden which certification would put on the police would not be justified by the benefits which would result." (The estimate of the number of shotguns was low by a factor of four or five).

31. The Firearms Act 1965 was clearly a panic reaction to the Abolition of the Death Penalty and dealt, amongst other things, with carrying firearms in public and trespassing. It increased penalties and made a number of small amendments. It was rushed through Parliament with considerable haste and was being amended by the Home Secretary right up to the Third Reading.

32. During the passage of the 1965 Act the conclusions regarding the potential benefit of controlling shotguns were repeated and those guns thus remained completely outside the system of controls except that a late amendment proposed by one Member changed the barrel length below which a shotgun became subject to certificate procedures from 20 to 24 inches. No reliable evidence was ever produced of the need for such a change other than the existence of a "shot pistol" with a barrel of 20.5 inches.

SHOTGUN CERTIFICATES

33. Late in 1965, Sir Roy (now Lord) Jenkins became Home Secretary and, in response to questions about controls on shotguns, confirmed the view that they should not be controlled. He made a further statement on 23 June 1966 when he announced that he would not impose controls on shotguns, basing his decision on the burden which would be placed on the police, and stating that, "The police do not consider that it would be right to make an extension at the present time."

34. Less than three months later, Mr Jenkins announced that he planned to impose restrictions on shotguns on the ground that they could be purchased too easily. He claimed that the criminal use of shotguns was increasing disproportionately. The statistics from the period do not justify that statement and the proposed legislation was the subject of no research, little if any consultation and even less open debate. Its introduction flew in the face of all previous statements on the subject and research leaves no doubt that the controls were introduced to deflect attention from popular demands for the reintroduction of capital punishment following the murder of three police officers in Shepherds Bush—murders committed with pistols. Shotgun controls were introduced for purely political reasons and not as a reasoned and logical measure likely to influence their use in crime.

35. Shotgun controls were introduced in the Criminal Justice Act of 1967 which contained many controversial measures including a new system for "paper" committals for trial, restrictions on media reporting, changes in the law on proof of criminal intent, admission of written statements as evidence and very much more. All this effectively stifled debate on the issue of shotgun controls.

36. The system created involved a licence related only to the individual and allowed unfettered acquisition of shotguns by a certificate holder. It may be that those representing shooting interests were persuaded that the controls would have no effect on the legitimate shooting community, but they failed to note a response from the Home Office Minister in the Lords, Lord Stonham who said, "This provision as to certificates is the beginning of our plans, and the one which we thought would best give us control". Researchers have interpreted this as an admission that an agenda existed within the Home Office and the introduction of the certificate was merely stage one.

37. The new shotgun controls were consolidated with all previous legislation in the Firearms Act 1968 which remains the basic Statute for firearms legislation but which has since been amended so often as to be largely incomprehensible.

MODERN POLICY DEVELOPMENT

38. In December 1970, HM Chief Inspector of Constabulary, Sir John McKay, was formally asked to review the current law on firearms. He set up a working group consisting of chief officers of police, Scottish Office and Home Office officials. Though there were some meetings of sub groups with representatives of shooting organisations, there was no real consultation and the entire proceedings were confidential.

39. Although the study was formally authorised in December 1970, preparatory work must have been going on for at least a year prior to that because the Staff Officer to HM Chief Inspector of Constabulary visited Cambridge in the autumn of 1969 seeking information about research being conducted by a senior police officer and offering to share available information. He was briefed on the progress of the research and when it became clear that the study raised doubts about the effectiveness and efficiency of the system all contact was cut off and no liaison took place. The researcher concluded that the Working Party was not interested in information which did not conform to its pre-determined results.

40. The McKay report was produced in September 1972, but has never been made public. It is known, however, that the first of 70 conclusions reached in a summary of the report was that a reduction in the number of firearms in private hands was a desirable end in itself. The report contained no evidence to justify this conclusion.

41. The McKay report is also known to have recommended that shotguns be placed under the same controls as rifles and pistols so that there would be a reduction in the number of shotguns in private hands. It asserted, without supportive evidence, that this step would reduce the number of shotguns in unauthorised hands and that, in the long term would make it more difficult for criminals to obtain shotguns. Other recommendations were vaguely worded, but all seek further restrictions on firearms of every class and further powers for the police. The fact that this report was never published and never made available for debate raises serious doubts about the intentions of those involved.

42. In May 1973, the Home Office produced a consultative document (a Green Paper), "The Control of Firearms in Great Britain" (Cmnd 5297) which was a very much watered down version of the McKay report without some of the more extreme statements. The primary aim expressed in the McKay Report was not included in the Green Paper nor were other proposals which the Home Office, itself heavily involved in the McKay Working Party, must have seen as politically unacceptable even if desirable for their own purposes. The proposals set out in the Green Paper were:

- (a) Total prohibition of all self loading rifles and pump action or repeater shotguns.
- (b) The creation of a power to prohibit other types of firearms or ammunition by Statutory Instrument.
- (c) Statutory Instrument to define acceptable reasons for possessing a firearm.
- (d) An effective ban on all collections of firearms.
- (e) Banning of the retention of trophies.
- (f) Minor changes to the declaration of and effect of convictions to the grant of a certificate.
- (g) Clarification of right of appeal against conditions imposed.
- (h) Requirement to notify transfer of firearm to dealer.
- (i) Power for police to revoke in cases where the "good reason" given may cease to exist.
- (j) Shotguns to be subject to the same controls as Section 1 firearms.
- (k) Requirement for numbering all firearms.
- (l) Visitor's permits to require sponsorship by UK resident.
- (m) Defining of antique firearms so as to exclude all cartridge firing weapons.
- (n) All pump-up airguns to be declared specially dangerous.
- (o) Safe keeping condition to be applied to shotgun ammunition.
- (p) Purchaser of shotgun ammunition to produce certificate.
- (q) Special permit for the holding of bulk shotgun ammunition.
- (r) Authorisation to be required for small arms nitro compound.
- (s) Self igniting airgun ammunition to be subject to Section 1.
- (t) Dealers to establish personal suitability and suitability of premises.
- (u) Mail order sales of firearms to be banned.
- (v) Only full time dealers to be registered.
- (w) Dealers to be at least 18.
- (x) Dealers to be allowed to keep registers in a form acceptable to the police.

- (y) Dealers to retain registers for five years.
- (z) Separate registers to be kept for each place of business.
- (aa) Dealers exhibiting at fairs to obtain temporary permit.
- (ab) Dealers to see certificate before returning repaired gun.
- (ac) Conditions regarding security in transit to be imposed on dealers.
- (ad) Club approval to be by way of firearm certificate issued by police.
- (ae) Exemption for miniature rifle ranges to be restricted to "long rifle" ammunition.
- (af) Certificate to be required for shooting galleries.
- (ag) Ages at which young people may possess firearms to be raised.
- (ah) Ban on imitation and toy firearms likely to be mistaken for real firearms.
- (ai) Penalty for possession of shotgun without a certificate to be the same as that for possession Section 1 firearm.
- (aj) An amnesty for illegally held firearms to be arranged.

43. It quickly became clear that most of these proposals had not been fully thought through and had ramifications far beyond those envisaged by chief officers of police. The statistics published in the Green Paper amount, at best, to a short-term presentation of raw data rather than a scientific evaluation of evidence. The period 1969 to 1971 (only three years) was used in most tables with an extension to 1967 in some instances. In respect of shotguns, there was no attempt to compare pre-control with post control figures to provide any form of analysis of the effects of the legislation. The figures in most of the tables are therefore just what any researcher in the field would have anticipated.

44. Table 4, for example, shows that in a three year period long barrelled shotguns were involved in a total 33 murders, 71 attempted murders, 163 woundings and 315 robberies. Pistols, which had been strictly controlled since 1920, were involved in 10 murders, 45 attempted murders, two manslaughters, 56 woundings and 534 robberies. This reflects in broad terms the situation found in 1934, that the shotgun was used in more homicides but less robberies than the pistol. As will be shown later, this reflects the nature of the crime of homicide in which domestic killings dominate the figures.

45. There was no attempt to isolate those crimes in which legally held firearms of any class had been used nor was there any attempt to relate these numbers with the numbers of firearms in each class likely to be in circulation. If the number of certificates provides a basis for a calculation of the number of firearms legally possessed, there were 793,092 shotgun certificates and 228,921 firearm certificates in 1971. Of the firearm certificates, it has been estimated that only 22.4 per cent related to pistols. This very rough estimate suggests that the number of shotguns legally in circulation exceeds the number of pistols by a factor of 15.2. If there is a direct correlation between numbers of firearms in circulation and rates of crime, this should have meant that shotguns were used in all classes of crimes 15 times more frequently than pistols.

46. No logical conclusion can properly be drawn from the statistics presented in the 1973 Green Paper.

47. The Green Paper was given a hostile reception by all sections of the shooting community and its flaws and failings were very forcefully pointed out. It emerged that there was very strong opposition amongst Members of Parliament to many of its provisions. Perhaps most important of all, there was no incident likely to provoke massive public concern or political hysteria of the type which had been used as the means by which almost all firearms legislation had been rushed into place.

48. No action was taken on the proposals at that time, though the Home Office did not lose sight of any of them and has used subsequent periods of hysteria to implement many of the measures. In addition, many in the shooting community accuse chief officers of police of seeking to impose the proposals by entirely administrative action. In particular, many chief officers started to preface all reminders for renewal of firearm and shotgun certificates with a statement of their intention to reduce to the absolute minimum the number of firearms in the hands of members of the public.

49. The Firearms Act 1968 remained the principle Act controlling the possession of firearms, but the Firearms Act 1992 dealt with readily convertible imitation firearms, finally giving some effect to the comment of the judges in *Kelly v Mackinnon* 10 years before.

FIREARMS (AMENDMENT) ACT 1988

50. The tragedy at Hungerford occurred in August 1987 creating a demand amongst media and politicians for further legislation. There was no public enquiry, though a short internal report by an Inspector of Constabulary was made available to Members of Parliament. This appears to have been a much sanitised version of events and in particular, did not deal adequately with the question of whether Michael Ryan should have been the holder of a firearm certificate. It is clear that he should not have been authorised to possess the self loading rifle which he had purchased and which he used, and there are doubts about whether the police acted properly in granting his certificate for the pistol. The absence of a thorough enquiry into this tragedy is something which should be corrected,

even at this late stage.

51. There was no attempt to analyse the Hungerford incident to establish what further measures might help prevent the recurrence of such an event. In particular, there was no attempt to examine the growing number of single incident large-scale killings in many parts of the world to determine why that class of crime had suddenly become more frequent. In an attempt to be seen to have done something, politicians appear to have instructed the Home Office to produce proposals to "tighten the legislation" and the Home Office simply selected items from their agenda in the 1973 Green Paper which might be brought forward again.

52. Claims from the then Home Secretary, Mr Douglas Hurd, that the Home Office had been considering changes to the legislation for some time can not be reconciled with private correspondence signed by him in September 1986, making it clear that there were no plans for further legislation.

53. The Hungerford incident occurred on 16 August 1987. On 22 September a Home Office Press Release quoted Mr Hurd's statement to the Police Superintendent's Association in which he outlined his proposals.

- (a) The prohibition of "high powered" self loading rifles.
- (b) All burst fire weapons and short barrelled shotguns to be prohibited.
- (c) Pump action and self loading shotguns capable of holding more than two rounds to be Section 1 firearms.
- (d) Ban on "downward" conversion of firearms to a lower Firearms Act classification.
- (e) Security condition to be applied to shotgun certificates.
- (f) Change to arrangements for visitors permits.
- (g) Increased penalties.
- (h) A firearms amnesty.

54. In December 1987, the Government produced a White Paper (Cm 261), "Firearms Act 1968 Proposals for Reform" which outlined proposals for legislation broadly in line with the earlier announcement. There was one significant change from the announcements made two months earlier in that major changes to the system of certifying shotguns were proposed.

55. These changes came about as a result of pressure from the police which was originally rejected by Mr Hurd. The Police Federation approached the Labour Party, then in opposition and the Shadow Home Secretary, Mr Hattersley, approached Mr Hurd with proposals that Labour would support the new restrictions and ensure the easy passage of the Bill through the House of Commons if Mr Hurd agreed to the additional restrictions on shotguns.

56. There is significance to several statements in the White Paper which should be highlighted. At paragraph 29, the Government states that it has carefully considered further restrictions on the storage of ammunition but concluded that there were serious obstacles to the storage of ammunition at clubs. Above all, it was concluded that it would be irresponsible to provide a large and readily identifiable store of ammunition attractive to criminals and terrorists. That contrasts with later proposals for central storage of some pistols.

57. Paragraph 43 of the White Paper considers further restrictions on firearms, including arbitrary limits on numbers of weapons which an individual can possess but decided against such a policy.

58. Paragraph 47 ruled out payment of compensation for firearms which were reclassified as prohibited, a policy which was to be modified later so that a tiny fraction of the real value of confiscated firearms was paid by way of compensation. The policy was in clear contravention of the European Convention on Human Rights (as was later to be acknowledged) and, almost certainly, of the Common Law of England.

59. It was claimed that the Government had consulted widely. In fact, there simply had been no time for detailed consultation, though chief officers of police had been allowed ample opportunity to comment. Representatives of shooting organisations were simply told that the main pillars of the legislation were not subject to any sort of consultation. The 1988 Act was a panic re-introduction of proposals which had already been rejected, without the slightest attempt at analysing the problem and seeking solutions which were addressed to the problem. The legislation was intended to do no more than reduce political pressure on the Government of the day.

60. The 1988 Act had a very stormy passage through Parliament. If there had been full consultation, an Act which was essentially technical in its nature and for which great public support was claimed might be expected to pass almost on the nod. The first stumbling block arose when the House of Commons Committee refused to further consider the Bill until the Government agreed to pay compensation. Eventually, the Government was compelled to give way, though the compensation offered was derisive.

61. The Committee Stage of the Bill was lengthy and often acrimonious. An enormous number of amendments were tabled and many of them were carried, only to be reversed when the Bill was before the House. The Committee sat no less than eleven times on a Bill which was originally of only 19 Sections.

62. One major change imposed at the Commons Committee Stage was the imposition of a Firearms Consultative Committee. That proposal was vigorously resisted by the Home Office, but the Government was compelled to give way. Section 22 of the Firearms (Amendment) Act 1988 now provides for the Committee and sets out its terms of reference.

63. The Firearms Consultative Committee was subject to considerable criticism during its early years but has established itself as a

forum for the consideration of changes to law and practice in this field. Few of its many recommendations have actually been implemented and the programme of work set for it has ensured that its recommendations are given shallow consideration and are based largely on the opinions of its members whose qualifications are sometimes far from those envisaged in the legislation. As a means of tinkering with existing practice the Firearms Consultative Committee may have served some small purpose. As a forum for research, consideration of principles and proposals for proper analysis of the effects of the legislation, it has failed. Significantly, when a real need came for such a Committee, it was completely ignored by all politicians and civil servants.

EFFECTS OF 1988 ACT

64. The 1988 Act had many different effects. The Home Office failed to produce a single case in which self loading rifles had been used in crime other than the Hungerford incident. In that case, the fact that the rifle was self loading was of no significance because the rate at which shots were actually fired was within the capability of any firearm including the most simple single shot weapon. Despite that, self-loading rifles were confiscated from some 8,000 people who possessed them lawfully and had done no harm with them. They were offered a level of compensation based on 50 per cent of the value at auction which was, effectively, less than one third the real value.

65. By far the greatest impact of the 1988 Act was on owners of ordinary shotguns. The 1973 Green Paper suggested at paragraph 61 that some chief officers of police believed that the imposition of a "good reason" requirement on shotguns would reduce the number of certificate holders by up to 20 per cent. The 1988 Act took effect on 1 July 1989 when the renewal cycle for certificates was of three years. Shotgun certificate numbers are reported at the end of each calendar year and in the four years which cover the first renewal cycle shotgun certificates in Britain were reduced from 971,102 in 1988 to 761,343 in 1992, a reduction of 21.6 per cent. A significant upward trend in shotgun certificate numbers over the previous six years was suddenly and markedly reversed.

POST 1988 ACTION

66. Following the implementation of the 1988 Act, there was growing concern about an every widening rift between the legitimate shooting community and the police. The nature of many of the complaints prompted the Association of Chief Police Officers to commission an internal enquiry called a Multi-Force Firearms Scrutiny, in which a Superintendent from the Devon & Cornwall Police conducted a survey of police practices. Superintendent Campbell Beattie reported in April 1991 but his report has not been made public. ACPO restricted themselves to an "Executive Summary" which does not reflect any of the very serious criticism of police inefficiency.

67. The Campbell Beattie Report highlights in particular failures in police intelligence management, noting that in some forces there was no system for transmitting to the firearms department the fact that a person had been arrested for a serious crime unless an officer remembered to take action. The Report also takes issue with the fact that police rely entirely on the renewal process for subsequent vetting of certificate holders. The report is said to liken this to closing the stable door after the horse has bolted.

68. In December 1993, HM Inspectorate of Constabulary for England and Wales reported on a thematic inspection of the administration of firearms licensing in twelve police forces in England & Wales. That report (The Administration of Firearms Licensing) was published by the Home Office. It is extremely critical of many aspects of police efficiency which was said to vary between excellent and very inefficient (para 9.7). It also notes that for the granting of certificates, individual forces imposed their own criteria, some of which border on the discriminatory, without apparent justification (Para 9.5).

69. In only one of the twelve forces inspected was there a system for automatically checking the names of offenders against firearms records. Most forces still relied on the police officer to trigger the system (Para 5.3). Campbell Beattie had reported exactly the same problems two years before. Much more significantly, perhaps, was the reported fact that there was no system for linking incidents with firearm certificate records. The first indicator of a serious problem concerning a certificate holder is likely to be in relatively minor incidents which, in isolation, have little significance, but which when seen in context may warrant further investigation.

70. A similar inspection of Scottish police forces was commenced, but appears to have been abandoned in the light of the Cullen Report on the Dunblane tragedy.

1992 AND 1994 LEGISLATION

71. The Firearms (Amendment) Act 1992 authorised the Secretary of State to vary the period for which firearm and shotgun certificates were valid and Orders made under that Act have extended from three years to five years the period of validity of certificates. That decision was taken on the advice of the Firearms Consultative Committee and with the complete support of the police and Home and Scottish Offices.

72. The Firearms (Amendment) Act 1994 creates new criminal offences of using a firearm or imitation firearm with intent to cause fear of unlawful violence. Its purpose was to extend the ability of the police and the courts to deal with those who made threats in circumstances not covered by existing law.

A EUROPEAN DIMENSION

73. Firearms law was amended yet again by the Firearms Act (Amendment) Rules 1992 which give effect to an EC directive. This further complicates the already over-complicated provisions about prohibited weapons, making them extremely difficult to understand and probably beyond the comprehension of the people to whom they apply. Other provisions deal with the European Firearms Pass and with visitors' permits.

CONTROLS IN EUROPE

74. The systems of firearms controls in Member States of the European Union vary widely and the European Directive of 1991 was intended to impose a basic minimum system of control, but compliance in many countries has been patchy.

75. EC countries all require a permit of some sort to acquire a handgun, but in general these are much more easily obtained than they were in this country. In many countries a wide class of handguns is excluded. In Belgium, for instance, World War I handguns are considered to be antiques and in France, modern replicas of firearm dating before 1870 are exempt from control. If the Directive is fully imposed, many types of firearm will still be freely available in Europe. For example, most repeating rifles and shotguns will be subject only to a declaration after purchase as will single shot .22 pistols. Alarm guns, CS devices, signalling guns, slaughtering instruments and many other devices are not controlled though many are simply ordinary firearms with a minor modification such as a spacer on the end of a revolver to make it into a slaughtering instrument. Single and double barrel shotguns will remain completely uncontrolled and, as now, will be freely sold in gunshops and even supermarkets.

76. Whilst, in theory at least, a purchaser from this country would be committing an offence in purchasing a firearm in Europe and bringing it back into this country, the ill disposed will hardly be deterred by that. Illegal firearms are, if anything, more readily available in Europe, though not to the casual visitor. The casual visitor would also have difficulty in obtaining a handgun permit in any country, but would have no difficulty obtaining some other firearm which could readily be modified, by sawing off or otherwise.

77. The EC Directive created the European Firearms Pass which was supposed to provide a single document which would allow target shooters and field sportsmen to travel throughout Europe. The unwillingness of some countries to allow the authorities in another country to authorise the possession of firearms in their territory (no matter how temporarily) has effectively prevented the European Firearms Pass from having much effect. The British Government's system of visitors' permits has made travel to the UK with a firearm more difficult to citizens of EU States than it is for visitors from other countries. The former must, in addition to all other requirements, produce a valid European Firearms Pass.

78. Claims that the system of visitor's permits has some value in relation to citizens of Member States must be questioned. In respect of those visiting to shoot in organised competition, the national body of the parent country submits a list of competitors to the national body of the organising country who, in turn, submits the list to the police. The police have absolutely no knowledge of any of these people and therefore issue permits on the word of the national body. Visitors who intend to indulge in field sports must be sponsored, usually by the person with whom they will shoot, who may know nothing about them except that they have made a booking. The police may know something about the sponsor, but will know nothing about the visitor whereas police who issue his European Firearms Pass will have had the opportunity to make enquiries.

79. The European Firearms Directive is currently under review, but the review process has only just started and speculation about possible results would be pointless. The validity of the British system (which is reported to provoke other countries, including Germany, to single out UK visitors for retaliatory action) must be called into question.

DUNBLANE

80. Only one word is required to describe the atrocity committed on 13 March 1996 at the Dunblane Primary School when Thomas Hamilton, who held a number of firearms on the authority of a firearm certificate issued by Central Scotland Police, shot dead 16 small children and one of their teachers and wounded another 10 children and three other adults before killing himself. Such a traumatic event was bound to generate a reaction akin to hysteria and would be extremely difficult to place in any sort of context. It was inevitable that, the perpetrator being unavailable, the search would begin for culprits.

81. It may be significant that the Minister responsible for firearms legislation responded to the grave and proper concerns of the House of Commons by saying, on the day after the event,

"We should first wait to find out the full facts before any Honourable Member jumps to conclusions about what solutions may be in the future. I have not seen anything which could have prevented yesterday's tragedy. All of us, as legislators and politicians, should be humble enough to accept that some things may be beyond our ability to solve and control. Comment overnight has tended to focus on weapons and their availability and use, but perhaps we should also look at the beginning of the cycle and ask what makes someone want to commit such an act in the first place. I have read in the history books that many people returned from the First and Second World Wars with a lot of weapons, but only in the past 20 years, during which films and television have shown violence of this nature, have such incidents taken place."

82. Perhaps realising the extraordinary difficulty of a rational response to this atrocity, the Government of the day rapidly appointed Lord Cullen to head an inquiry and asked that judgement be delayed until he had reported. Perhaps they hoped that a balanced report would allow them to deal with the matter effectively and that a short lapse of time would calm some of the hysteria.

83. The indications are that this was the initial response of the Conservative Government and that, for a short period at least, there was a genuine desire to seek real solutions.

84. The terms of reference of Lord Cullen's enquiry were, "To inquire into the circumstances leading up to and surrounding the events at Dunblane Primary School on Wednesday 13 March 1996, which resulted in the deaths of 18 people; to consider the issues arising therefrom; to make such interim and final recommendations as may seem appropriate; and to report as soon as practicable."

85. Having appointed Lord Cullen to conduct an enquiry, the Government, through its civil servants, produced a joint Scottish Office and Home Office submission which purported to do no more than set out a series of options for Lord Cullen to consider. There are aspects of that document which fall well outside any such parameters and they will be dealt with later.

86. The Labour Party in opposition took an entirely different approach and rapidly produced a 15 page submission to Lord Cullen which was qualified by a final paragraph that the submission set out only initial views and suggesting that the Party would consider all the evidence and the views of Lord Cullen before reaching any final judgement.

87. It is clear that those who prepared the submission sought no professional assistance in producing this document and that they did not consult with the shooting community. It seems that they did not regard the matter as sufficiently important to warrant extensive research. A detailed critique of the document will be provided.

88. The document displays a complete unawareness of the nature and economic value of shooting sports in general or of pistol shooting in particular. Over a million people participate directly in shooting sports. Field shooting alone is worth £600 million per year and if target shooting is added the total becomes over one billion. It creates 14,000 jobs directly and probably double that indirectly. In Scotland alone, shooting creates 12,000 full time jobs in areas where there would be little or no other employment opportunity and brings in £78 million per year from outside the borders. At that time, pistol shooting alone had a total economic value (inclusive of fixed assets) of around £60 million.

89. The Labour submission also demonstrated an incomplete knowledge of the safeguards already in place in firearms legislation and of the many obstacles placed in the way of a person wishing to hold a firearm certificate. They noted the increase in reported crime

involving firearms, though their analysis of the trend was flawed and failed to even attempt to correlate the reduction in legally held firearms and changes in rates of armed crime.

90. When the Labour submission turned to the extremely complex question of international comparisons, the researchers failed to realise that published statistics are not comparable and quoted conclusions from carefully selected works that have not stood up to even modest examination of their reliability.

91. On the basis of this flimsy and entirely unreliable evidence, the Labour Party suggested a whole raft of reforms of firearms legislation, including many which have civil liberties implications. They proposed, for example, that chief constables should have absolute discretion to refuse any application and should not be required to give reasons for doing so (Para 32). They conceded that a Star Chamber system might further consider the chief constable's decision in some cases, though the applicant would not be told why the decision had been taken. They wanted public notice of all applications—advertising to criminals where they might find a firearm! They made no comment about police efficiency and the manner in which the existing system was operated. They did not restrict their proposals to handguns, but made sweeping and unsupported proposals for draconian restrictions on all classes of firearms.

THE 1996 HOME AFFAIRS COMMITTEE HEARINGS

92. Lord Cullen's enquiry was authorised on 21 March and he commenced hearings in connection with his enquiry on 29 May 1996 and closed the hearings on 10 July 1996. The Parliamentary Home Affairs Committee as then constituted examined the matter and concluded that it was appropriate for them to look at the issue of the availability of handguns which they decided was much wider than the terms of the Cullen enquiry. On 28 March, they announced that they would hold their own enquiry into the subject of the Possession of Handguns which was, in one sense much more restricted and in another much broader than they understood the remit of Lord Cullen.

93. The Home Affairs Committee received a very considerable amount of written evidence, some of which was identical to that submitted to Lord Cullen and some of which differed markedly from that transmitted to the Cullen enquiry. The Official submission of the Home and Scottish Offices was presented to the Home Affairs Committee, but the Labour Party submission was not. Oral evidence was taken only on 8 May 1996.

94. Oral evidence was given on behalf of the Association of Chief Police Officers and the Police Superintendents' Association and comment will be made later about the enormous differences between that and the submission to Lord Cullen on their behalf. In essence, their evidence to the Home Affairs Committee was that it would be wrong and unnecessary to ban handguns. Their evidence to Lord Cullen demanded such a ban, to one degree or another. Both submissions lacked any factual evidence and analysis to justify any of the conclusions reached.

95. Oral evidence was also taken from Home Office Minister, David McLean, MP, and a team of civil servants and from representatives of the British Shooting Sports Council. None of the oral evidence contained claims that a complete or partial ban on handguns should be imposed.

96. Written submissions contained some proposals for bans on firearms of various types. For example, the British Association of Social Workers proposed that it be made unlawful to possess a handgun, rifle or automatic weapon, and that the possession of shotguns be restricted to those who had a need, for the destruction of vermin etc. They claimed that "gun possession is becoming more widespread" and action should be taken "against those who use guns for criminal activities". They offered no supporting evidence and failed to appreciate the very substantial reduction in the numbers of legally held guns whilst the number used in crime had increased.

97. The Royal College of Psychiatrists has the distinction of being wrong in all the statistics it chose to present—409,000 licences for rifles and 1,296,000 shotgun certificates and 9 per cent of homicides committed with shotguns—but the thrust of their submission was to dispel the suggestion that psychiatrists could be used to filter out unsuitable applicants for firearm or shotgun certificates.

98. In what turned out to be a significant item, the Police Federation submission reproduced into less than one page of the Home Affairs Committee Report—about 800 words. This organisation claimed, without presenting any evidence, without reporting on any studies, but merely as a matter of opinion, that the only possible solution was a total ban on all handguns. In that, they differed entirely from the police organisations representing the higher ranks.

99. The Parliamentary Home Affairs Committee reported on 24 July 1996 (Fifth Report 1995-96 393 I and II). The Committee had divided on strictly Party lines with the Conservative majority approving a report which said that a ban on handguns was not justified whilst all the Labour members supported a minority report by Chris Mullin MP proposing that, (1) The goal of responsible politicians should be dramatically to reduce the ownership of guns in private hands. (2) That the private possession of handguns should be banned, though some target shooting might continue using guns kept at central locations and some occupational use was essential. (3) That methods for reducing the number of legally held shotguns must be looked at. (4) That shotgun certificates should no longer be granted to residents in urban areas. (5) That they could see no occupational need for airguns, found it difficult to see any justification for personal ownership of them and that consideration should be given to bringing them within the licensing system.

100. The minority conclusion may have represented the personal opinions of some of the Labour group, but it was not based on any evidence presented to the Committee and went outside its terms of reference which were restricted to handguns. Few people outside full time politics will understand how a group of people can listen to the same evidence and then reach diametrically opposed conclusions split entirely along political Party lines.

101. Lord Cullen's Report was completed early in September 1996 but an announcement was made that, to avoid creating a party political issue during the various Party Conferences then about to be held, publication would be delayed until all the Conferences had been completed and Parliament was about to resume its sittings.

POST CULLEN POLITICS

102. There was no debate on this issue at the Conservative Party Conference, but if the Cullen Report had really been withheld it seems strange that senior politicians and Junior Ministers were able to tell representatives of shooting organisations who lobbied the Conference that there would be no ban on pistols or pistol shooting but that unspecified additional restrictions would be imposed.

103. If there had been an unofficial agreement not to raise the issue at the Party Conferences, the Labour Party broke that agreement, giving the platform over to Mrs Anne Pearston of the Snowdrop petition whose highly emotional speech had a devastating effect on the vast majority of those attending. No-one could have failed to be moved by the story of the massacre of small children by a madman, though the understandable emotion did not create an environment in which real solutions could be sought.

104. The effect of the Labour Party Conference was to shift the ground entirely from the original agreed approach of calmness and rationality to making the issue a Party Political football in the light of a coming election. It is clear that Labour politicians in particular, but

also some Conservative politicians, saw the issue as a vote winner or vote loser. From that moment on rational political action became increasingly less possible.

105. The Cullen Report was formally delivered to the Secretary of State for Scotland, Mr Michael Forsyth, on 14 October and was to be presented to Parliament on 16 October 1996. On 15 October the Home Office held a confidential press briefing at which selected press representatives had been told that the Government did not propose to ban handguns, but would merely require that they be disabled and that parts of the guns had to be left in secure conditions at clubs. Such press briefings are, of course, entirely confidential, but the members of the press concerned usually require comment on proposals from informed sources and could not therefore keep the matter entirely to themselves. Confirmation of what was said can be found in various newspapers on the morning of 16 October 1996.

106. Only those who were present can know exactly what happened at that briefing and subsequently, but Mr Forsyth refers in his statement (Hansard 16 October 1996 Col 825) to a meeting with colleagues on the previous day at which the Government's position was decided. In response to comments by the Opposition spokesman, he denied that there had been a shift in the Government's position, but other opposition speakers also made reference to the shift in policy and it seems that the Government's plan was already well known in some circles.

107. Informed sources have indicated that at a meeting late on 15 October, Mr Forsyth indicated that he would resign as Scottish Secretary unless there was a total ban of handguns. He feared that in the forthcoming election he would certainly lose his seat (which covered the Dunblane area) if no such ban was imposed. At that late stage, it was decided to do a complete about face and impose a total ban on large calibre handguns whilst permitting the retention of small calibre handguns under draconian conditions. It is in the nature of things that these reports of events cannot be substantiated with real evidence, but all the circumstantial evidence supports them.

108. The Cullen report was presented to the House of Commons by Mr Forsyth, at 3.30pm on 16 October 1996. Despite a plea from Mr Toby Jessel MP, addressed to Mr Forsyth that, having had the Cullen report Parliament should "Pause, hesitate and study, and make quite sure that we get the change in the law absolutely right", the Home Secretary rose at 4.06pm to announce that the government would ban all large calibre handguns and would restrict small calibre handguns to clubs where they would have to be securely stored.

109. The Cullen Report was supposedly accepted by all political parties, but no opportunity was given for wider study or debate. There was to be no consultation, no Green Paper, no White Paper, no time for anyone to reflect on what was proposed. Although the Government, the Home Office and the Police have since drawn from the Cullen report those items which they wished to pursue and ignored those parts which did not suit them, there was to be no opportunity to test that report.

110. The Cullen report will be considered in detail later in this paper[[15](#)] and the evidence shows that it is a deeply flawed document, that the conclusions it reaches are not substantiated by the evidence and that matters vital to the attribution of blame in this case have been carefully avoided in the report.

111. Study of the report is illuminating even at this stage but the failure of the Government to allow time for study and consultation amounts to a denial of democracy and resulted in yet another piece of panic legislation on firearms.

112. Matters were made worse by the use of the "guillotine" to ensure that much of the Act was never debated in the House of Commons, the packing of the Standing Committee so that no member of it was capable of speaking for the shooting community and most of the Conservative Members were on the Government payroll. It may or may not be significant that the responsible Minister, Mr David McLean felt unable to pilot the Bill through the Commons and the task was left to Miss Ann Widdecombe.

113. It may be said that public opinion demanded swift action, matters had been necessarily delayed by several months but a further delay to allow for proper debate and consultation would have been both reasonable and proper. The Bill affected people who were not pistol shooters and many of its provisions have already proved to be seriously flawed. The procedures adopted were a denial of the democratic process to a large group of people who had done nothing wrong. The democratic process does not rely on Parliament alone, it relies also on consultation, particularly with those who will be affected by draconian measures.

114. The effect on the shooting community, harsh though it was, is far less important than the statement which was made about the nature of democracy in modern Britain. The Firearms Act 1997 was forced through Parliament with its injustices, flaws and weaknesses and those who would effectively be punished by loss of their valued property, their sport and their rights had no opportunity to make representations, adduce evidence or produce arguments.

115. The compensation scheme made under the Act has been examined by National Audit Office and found to be seriously flawed. Lack of consultation was again to blame. Many who should be compensated for the most serious losses sustained because of this legislation are unlikely to receive any compensation and almost all have had to wait for unreasonable lengths of time.

116. In the run-up to the 1997 General Election, the Labour Party made a commitment that, if elected, it would ban all handguns, including the small calibre handguns which the Conservatives had failed to ban. In fact there would have been very few such handguns which would have been stored under security conditions far stricter than have ever been applied to any firearms in a democracy, and their owners subject to impositions far more draconian than those applied to convicted murderers. Few pistol clubs could have complied with the security requirements, and even fewer would have attempted to do so. Few small calibre pistol owners would have suffered the indignities which the Act would have imposed on them. Following their victory, Labour implemented their commitment in the Firearms (Amendment)(No 2) Act 1997, which made few changes except to revoke those provisions in the earlier Act which had allowed the possession of small calibre handguns under restricted circumstances. Though there was nominal opposition from the Conservative Party, their own earlier actions ensured that the opposition was muted and their weak position in Parliament ensured that it could have no effect.

117. The compensation scheme for the No 2 Act mirrored precisely that created for the earlier Act with all its defects and injustices.

118. Both compensation schemes and the manner in which they have been administered have been the subject of a great deal of criticisms, but the political fact is that the Labour Government was implementing a Conservative Government's scheme and neither Party has been willing to raise the issue forcefully or propose major changes to the system. Those who have suffered because of the flaws in the schemes therefore had no effective Parliamentary representation and no prospect of fair treatment in a political issue.

THE LESSONS OF HISTORY

119. The regulation of firearms in Britain is now governed by a mass of primary and secondary legislation but of almost equal importance is the policy on administering the Act, particularly in those areas where it remains incomprehensible. As an example of the complexity of the legislation, Section 5 of the 1968 Act deals with prohibited weapons and, when brought into effect it consisted of 305 words. It now consists of 2,545 words and is beyond the grasp of most of those whom it affects and, indeed, most of those who must administer it.

120. This mass of law was based on intrinsically flawed panic legislation of 1920. It has been added to by one panic measure after another. It has never been the subject of rational consideration. The principles which should apply to all legislation are lost. No-one has ever stated a precise objective for the legislation or indicated how it will be measured against that objective to see whether or not it is working.

121. If past experience is any guide, Parliament, the police and the Government will now try to make this mass of unworkable legislation function in some way despite the cost, despite the bureaucracy and despite any injustice. Nothing will now happen until another major incident creates a period of panic and hysteria when more ill conceived legislation will be added to the heap. The real problems, and the real danger to society will remain unaddressed.

PART II

THE LINK BETWEEN GUNS AND CRIME THE USE AND MISUSE OF STATISTICS

THE AVAILABILITY OF GUNS

1. Those demanding stricter restrictions on access to firearms often claim that there is a direct correlation between the number of guns available and rates of homicide, violent crime, suicide and accidents. They claim that if access to guns were restricted or further restricted, those anti social effects of guns would be reduced.

2. To examine this philosophy it is necessary, firstly to establish the level of availability of firearms. This is often done by reference to the number of licences issued to members of the public, but that ignores the fact that soldiers (full time or part time), police and others have ready access to firearms and are involved with those firearms in crime, suicides and accidents.

3. The extent to which these state organised groups are involved varies over time. In Britain the Army has been drastically reduced in numbers in recent years, but the access to firearms by police officers has increased and they have shown themselves to have a high accident potential.

4. Firearms of some categories fall outside the system of controls though they are used in crime. The airgun is probably the best example, but antiques might feature in crime rarely, as might classes of signalling device which are not subject to controls. Imitation and deactivated firearms fall outside the system of controls but are used to threaten in crimes such as robbery.

5. Though they feature significantly in crime, a potentially large number of illegally held firearms cannot be included in any accurate measurement of the number of firearms in circulation. There can be no system of measuring the number of illegally held firearms and estimates made vary considerably. Some commentators have suggested a figure of four million illegal firearms in circulation in Britain. Bearing in mind tht almost one million illegally held firearms have been surrendered to, or confiscated by, the police since the end of World War II and that the number of firearms available for use in crime does not seem to have diminished, it seems reasonable to suggest that the number of illegal firearms cannot fall far short of the total number legally held.

6. There is nothing which might show what effect firearms legislation and the manner in which it has been administered might have had on the total illegal market, which includes so-called "benign" firearms as well as those actively used by criminals. Benign firearms include those brought back as war souvenirs but never licensed. Benign or otherwise, those firearms are available for use in crime, accidents or suicides.

7. The number of firearms which are subject to current police licensing procedures therefore seriously under-states the overall availability of firearms which might be used to cause harm, but it is the only measure which is readily available and provides a relatively stable indicator of one aspect of firearms ownership. Further, licensed firearms are the only ones which the State can target. They do not know who may have illegal firearms and so can target them only very rarely by police action. But the licensed firearms owner is well known, well documented and easily available.

8. Records of the numbers of firearm and shotgun certificates in existence were not kept at national level prior to 1968 and for a number of years thereafter were produced only sporadically. The following table shows the figures for Britain and it will be noted that over the entire period the number of firearm certificates has been in decline. The apparent rise in shotgun certificate numbers between 1968 and 1974 was a product of the time taken for the then new system of control to have its effect. The rise from 1975 to 1988 is attributable, in part, to increased interest in the sport of clay pigeon shooting which occurred world-wide, whilst the enormous decline from 1988 was directly caused by the stricter controls imposed that year.

NUMBERS OF SHOTGUNS AND FIREARM CERTIFICATES ENGLAND, WALES AND SCOTLAND

<i>Year</i>	<i>Shotgun Certificates</i>	<i>Firearm Certificates</i>
1968	-	256,061
1969	701,562	-
1971	793,092	228,921
1974	850,507	224,665
1979	867,149	209,954
1980	866,980	206,799
1981	870,132	203,360
1982	864,802	200,808

1983	867,684	197,718
1984	882,958	198,507
1985	905,531	198,550
1986	928,479	198,562
1987	950,369	197,430
1988	971,102	193,809
1989	952,154	182,903
1990	877,865	175,164
1991	800,085	170,288
1992	761,343	168,182
1993	751,881	169,875
1994	740,441	172,821
1995	722,574	174,020
1996	704,135	173,912
1997	686,294	164,690

Figures for 1998 are not available at the time of writing.

9. Home Office figures show that, in 1977 there were 2.2 shotguns per certificate and 2.3 firearms per firearm certificate. The total number of each class of firearm over the years is rather more than double the number of certificates. In 1977, therefore, more than 1.5 million shotguns were legally in circulation together with about 378,000 Section 1 firearms, a ratio of 4 to 1 in favour of shotguns.

MEASURING THE EFFECTS OF LEGISLATION

10. The above table indicates that, particularly in relation to shotguns, recent legislation has significantly reduced the number of legally owned firearms. It tells us nothing about illegally owned firearms or about firearms in the hands of servants of the State. As a measure of overall gun ownership in Britain, it is therefore flawed, but it is the best we have and it is the only part of the spectrum of firearms ownership which can be changed by further legislation.

11. Comparison of those figures with rates of crime involving firearms or with accidents or suicides might provide a measure of the correlation between legally held firearms and anti social firearms behaviour, but such a direct comparison makes an assumption that the licensed firearms are significant in the type of antisocial behaviour to be measured. That is not necessarily the case.

12. Published criminal statistics are subject to many serious limitations which make them very difficult to understand and impose considerable difficulty in drawing valid conclusions. However, when their limitations are understood, conclusions can properly be drawn provided that the statistical base is large enough and all possible steps are taken to eliminate variables.

13. Comparative studies showing changes in the criminal use of firearms fall into two broad classes; one studies events over time in a particular country or area (time series analysis), the other selects a particular period of time and studies events in a number of countries (cross sectional analysis).

TIME SERIES ANALYSES

14. Time series studies may be complicated by some variables, including changes in social attitudes, police effectiveness, public reporting practices, crime reporting procedures, penal policies and so on, but the more difficult variables found in cross sectional analyses are eliminated unless there have been vast social upheavals in a particular country. A time series study is more likely to be capable of supporting conclusions if the study covers a sufficient number of offences and a sufficient period of time. Short term changes produced in a time series study are rarely accurate indicators of real change, but long term trends can accurately show how a problem has developed or whether particular factors such as changed legislation have produced effects.

Time Series Analysis of Firearms Crime in Britain

15. A time series study relating to Great Britain is a relatively simple process, but simplistic conclusions should not be drawn from it. However, if the thesis that more guns means more violent crime is correct, it must follow that fewer guns should mean fewer violent crimes. Home Office criminal statistics for England and Wales have given figures for the use of firearms in crime only for relatively modern times, prior to which the only information available was that from major cities, notably London, or from anecdotal and unreliable evidence. All the evidence that can be found from these sources shows that when there were no controls on firearms the rate of armed crime was very low and it remained so until the mid 1960s when it began to escalate. But the rate of legal firearms ownership was declining and has continued to decline whilst the rate of armed crime has grown.

16. The basic data which the Home Office supplies is based on the number of offences recorded by the police in which firearms were used, but that classification is extremely complicated. Firstly, it covers offences specified by the Home Office and includes criminal damage where the damage caused exceed £20. The real value of £20 has been reduced over the years. A broken window which cost

£10 to replace in 1980 would cost £24.40 to replace in 1998 and so would be recorded in the statistics if it was broken by a "firearm". In 1997, 12,410 offences involving a firearm were recorded, of which 5,906 were criminal damage.

17. The word used might be misinterpreted to mean fired but in fact encompasses use as a threat, use as a blunt instrument and effectively means only that the presence of a firearm contributed in some way to the commission of the offence.

18. The term firearm, as used in the statistics is all embracing and includes imitations, airguns and "supposed" firearms. Airguns feature disproportionately in criminal damage and in the less serious assaults and in 1997 accounted for 7,506 of the 12,410 offences. Thus, a single entry under the classification of "offences in which firearms were used" could be a homicide, or could be a case in which a youth broke a window with an airgun pellet.

19. Statistics for offences in which a firearm was used, particularly when broken down into categories, are quite small and the nature of the recording systems is such that figures for one particular year have very little meaning, but figures over a number of years provide a reliable indicator of trends. Those trends do not provide a precise measurement at any point in tables but are sufficiently accurate for the decision making process.

20. In addition to the various complexities mentioned, other recording policies create further difficulties. For example, in the statistics for England and Wales, the division between burglary in which a firearm was used and a robbery in which a firearm was used will often depend on the precise moment at which the firearm was presented and the nature of its use. If the firearm was used to demand that property be handed over, the offence would be robbery. If the firearm was used to facilitate escape, would be burglary.

21. Similarly, statistics for violence involving firearms, and particularly homicides, are complicated by the high number of offences which are domestic in nature. Though domestic homicide is no less serious than any other class, it involves many factors not present in homicides of other types. The picture created from a study of the use of firearms in homicide points to conclusions which differ from those to be drawn from studies of the use of firearms in other criminal activity.

22. As a measurement of trends in the use of firearms by criminals, the figures for robbery provide the most accurate indicator, though they do not provide a measure for any particular year.

23. For the reasons outlined, a measurement of the extent to which criminals resort to firearms is best found in the figures for robbery whilst a much more complex set of figures for the use of firearms homicide illustrates several phenomena which are not necessarily susceptible to the same solutions.

24. A simple examination of the numbers of firearm and shotgun certificates in England and Wales compared with tables for homicides and robberies involving a firearm from 1969 to 1997 set out below will show that there is no statistical relationship between the numbers of firearms legally held in Britain and the use of firearms in homicide or robbery.

USE OF FIREARMS IN HOMICIDE AND ROBBERY

25. The number of robberies and homicides in which a firearm was used since 1969 is shown in the following table.

HOMICIDES IN WHICH CERTAIN FIREARMS WERE USED—ENGLAND AND WALES

<i>Year</i>	<i>Firearms Homicides</i>	<i>% of all Homicides</i>	<i>Firearms Robberies</i>	<i>% of All Robberies</i>
1969	26	6.6	464	7.7
1970	29	7.4	478	7.6
1971	38	8.3	574	7.7
1972	31	6.6	539	6.0
1973	32	6.9	487	6.6
1974	51	8.5	650	7.5
1975	45	8.9	958	8.5
1976	45	8.0	1,076	9.3
1977	29	6.1	1,234	9.0
1978	40	7.5	996	7.6
1979	55	8.7	1,038	8.3
1980	25	4.0	1,149	7.7
1981	34	6.1	1,893	9.3
1982	46	7.4	2,560	11.2
1983	43	7.8	1,957	8.8
1984	67	10.8	2,098	8.4

1985	45	7.3	2,531	9.2
1986	51	7.7	2,629	8.8
1987	77	11.2	2,831	8.7
1988	36	5.8	2,688	8.6
1989	45	7.0	3,390	10.2
1990	60	8.9	3,939	10.9
1991	55	7.6	5,296	11.7
1992	56	8.1	5,827	11.0
1993	74	11.0	5,918	10.2
1994	66	9.1	4,104	6.8
1995	79	9.4	3,693	5.8
1996	49	7.2	3,617	4.9
1997	59	8.0	3,029	4.8

Figures for 1998, which are crucial for their relationship with the implementation of the 1997 legislation, are not available at the time of writing.

26. Those figures illustrate that, though there has been a gradual increase in the use of firearms in homicide it has remained a fairly constant proportion of all homicides. The nature of those homicides will be discussed later. There has been an enormous increase in the number of robberies in which firearms are used but, though it fluctuates, but the proportion of such robberies has, until 1993, been a fairly constant proportion of a crime which must involve violence or the threat of violence.

FIREARMS ROBBERIES IN LONDON 1946 TO 1969

27. To look back further into the use of firearms in crime, we may examine the figures for robberies in London which was, until recently, the centre of armed robbery in Great Britain, with very few cases being recorded outside London and no statistics for those cases being available. The following table shows the London figures from the end of the war to 1969.

ROBBERIES IN LONDON IN WHICH FIREARMS WERE USED

<i>Year</i>	<i>Firearms Robberies</i>
1946	25
1947	46
1948	28
1949	13
1950	19
1951	10
1952	19
1953	17
1954	4
1955	13
1956	19
1957	20
1958	35
1959	51
1960	39

1961	53
1962	62
1963	43
1964	92
1965	114
1966	142
1967	165
1968	225
1969	272

28. Not until 1965 did the number of cases run to three figures and it seems that the mid 1960s mark a watershed in the criminal use of firearms in this country.

29. By contrast, the figure had risen to 1,618 cases in 1991 but had been reduced to 597 cases by 1994. According to a report from the magazine *Police Review* credited to the head of the Metropolitan Police Flying Squad, that reduction is a direct result of a concentration on this class of crime by the police. Similar conclusions are reported from several police forces in the more recent issues of the Annual Criminal Statistics.

TYPES OF FIREARMS USED IN HOMICIDE AND ROBBERY

30. The nature of the control exercised by the authorities varies with the type of firearm, with shotguns being much less stringently controlled prior to 1989 when the 1988 Act took effect and remaining less stringently controlled after changes in legislation. The following tables show the major type of firearm used in robbery and homicide from 1980 to date. There is nothing in the tables to indicate that the 1988 Act had any discernible impact.

ROBBERIES IN WHICH CERTAIN FIREARMS WERE USED—ENGLAND AND WALES

<i>Year</i>	<i>Total firearms</i>	<i>Shotgun</i>	<i>Sawn-off shotgun</i>	<i>Pistol</i>
1980	1,149	127	181	529
1981	1,893	262	292	1,001
1982	2,560	364	372	1,440
1983	1,957	269	342	1,011
1984	2,098	216	378	1,106
1985	2,539	282	399	1,221
1986	2,651	256	471	1,196
1987	2,831	280	450	1,374
1988	2,688	241	451	1,321
1989	3,390	280	524	1,772
1990	3,939	280	448	2,233
1991	5,296	381	650	2,988
1992	5,827	406	602	3,544
1993	5,918	437	593	3,605
1994	4,104	274	373	2,390
1995	3,963	235	281	2,478
1996	3,617	224	232	2,316
1997	3,029	121	178	1,854

HOMICIDES IN WHICH CERTAIN FIREARMS WERE USED—ENGLAND AND WALES

<i>Year</i>	<i>Total firearms</i>	<i>Shotgun</i>	<i>Sawn-off shotgun</i>	<i>Pistol</i>
1980	24	11	1	8
1981	34	21	-	11
1982	46	28	7	9
1983	42	27	5	8
1984	67	34	7	21
1985	45	22	7	8
1986	51	31	6	10
1987	77	33	10	10
1988	36	19	8	7
1989	45	19	7	13
1990	60	25	8	22
1991	55	25	7	19
1992	56	20	5	28
1993	74	29	10	35
1994	66	22	14	25
1995	70	18	10	39
1996	49	9	8	30
1997	59	12	4	39

31. The two tables indicate that, in robbery, the pistol is very much the preferred weapon of the criminal, but that shotguns, including sawn off shotguns are significant. There has been ample research dating back many years and confirmed many times since, that robbery is rarely if ever a first offence. Criminals tend to graduate towards robbery and will therefore be prohibited persons under the Firearms Act. Their firearms must, therefore, be unlawfully held. It is further noted that the pistol, though much more strictly controlled, is preferred over the less strictly controlled shotgun. This may be particularly related to ease of concealment, but long barrelled shotguns are used in a significant proportion of the cases so that concealment is not a factor in those cases.

32. In homicide the picture changes. In the earlier years, the shotgun was the most common weapon. A large number of homicides are domestic in nature with about 60 per cent of male homicide victims and over 80 per cent of female victims closely acquainted with the offender. In such circumstances, the shotgun, which is more widely owned, is more likely to be available. A good deal of research confirms what has come to be called the weapons substitution theory. It is widely accepted that the presence or absence of a particular weapon would have little influence on the outcome of a homicidal attack in a domestic situation and what matters is the state of mind of the killer. In effect, the absence of a firearm in that class of offence would lead only to the use of another weapon with the same result.

33. The rise in the use of pistols in homicide since 1992 reflects a most important change in the nature of homicide and may well be associated in the rise of drug and criminal gang related shootings which are being reported in the media and by the police. A discernible change in the pattern of homicides involving firearms is taking place which may reflect a total failure to effectively police a segment of the community and which will have far reaching implications if not tackled effectively. Tackling this phenomenon through the medium of stricter controls of pistols is clearly not an option. They were extremely strictly controlled throughout the period and are now effectively banned.

cROSS sECTIONAL ANALYSES

34. In terms of the relationship between gun ownership and homicide, cross sectional analyses, comparing one country with another or comparing groups of countries, create enormous problems because of the huge number of variables that may exist. The simpler of these variables are the different methods of defining and counting the number of firearms. Only those firearms which have been declared to the authorities can be counted. In some countries, licenses are required for almost all classes of firearms, including antiques and air weapons. In other countries, the term antique is extended to cover items considered to be subject to license elsewhere, and many classes of shotgun and rifle are not controlled so are not countable.

35. Homicide statistics too vary widely. In some developing countries, the statistics are known to be far from complete. Figures for crimes labelled as homicide in various countries are simply not comparable. Since 1967, homicide figures for England and Wales have been adjusted to exclude any cases which do not result in conviction, or where the person is not prosecuted on grounds of self defence or otherwise. This reduces the apparent number of homicides by between 13 per cent and 15 per cent. The adjustment is made only in respect of figures shown in one part of the Annual Criminal Statistics. In another part relating to the use of firearms, no adjustment is made. A table of the number of homicides in which firearms were used in England and Wales will therefore differ according to which section of the annual statistics was used as its base. Similarly in statistics relating to the use of firearms, a homicide will be recorded where the firearm was used as a blunt instrument, but in the specific homicide statistics, that case will be shown under "blunt instrument".

36. Many countries, including the United States, do not adjust their statistics down in that way and their figures include cases of self defence, killings by police and justifiable homicides. In Portugal, cases in which the cause of death is unknown are included in the homicide figures, inflating the apparent homicide rate very considerably.

37. Causing death by dangerous driving is not classed as homicide in England and Wales, but is classified as homicide in some countries. Over 200 such cases occur in England and Wales each year.

38. In France, Switzerland and several other countries, attempts and completed homicides are treated as a single statistical unit and can be separated out only by special enquiry.

39. The variables created by the factors listed above could be either eliminated or controlled-for in a thorough study. Other variables are much more difficult to eliminate or balance. Social, ethnic, historical and geographical factors have been shown to be extremely important, and police efficiency, arrest rates and sentencing policies which differ from country to country may be important in some classes of homicide, but are less important in others.

40. The availability of firearms to law abiding citizens may increase or reduce crime of different classes and the effect of such phenomena may also vary according to social factors such as the level of acceptance of force to deal with violent crime.

HOME OFFICE STATISTICAL PRESENTATIONS

41. Home Office statistical presentations are almost invariably time series analysis of events in England and Wales. Brief international comparisons are made from time to time, the last being in the Criminal Statistics for 1986. In that presentation, considerable emphasis is laid on the difficulty of direct comparisons and a number of important factors are listed which mitigate against comparability. Because of those factors, the Home Office chose to look at changes in crime levels in different countries on the assumption that the important factors remain constant in each country. From their table they seek only to identify trends in each country over a 10-year period.

42. Home Office policy in this area changed quite dramatically and without explanation in respect of the evidence presented to the Cullen Inquiry and to the 1996 Home Affairs Committee hearings. For those inquiries, the Home Office Research and Statistical Branch chose to rely solely on cross sectional analyses of rates of firearms ownership and homicide. They apparently rejected the value of a time series analysis based on their own in-house statistics on firearms ownership and homicide rates in England and Wales and on the use of firearms in robbery, despite the immediate availability of material for a time series study.

43. Their assumptions were made on the basis of just four pieces of research from the scores which have been conducted:

- (a) A 1995 Canadian Department of Justice survey in which the Home Office was consulted.
- (b) Two studies carried out by Professor Martin Killias in 1989 and 1992.
- (c) Research carried out by Sloan et al 1988 in which homicide and gun ownership in Seattle and Vancouver were compared. The Home Office paper claims that the two cities were comparable in climate, history, demography and socio-economic factors but differed only in gun control measures.
- (d) Their own comparison of crime and violence in the United States and England and Wales which they claimed drew on new or updated material.

Each of these studies is briefly summarised with little detail. A large number of other studies are not referred to and the incomplete bibliography ignores the works of authorities like Kates, Kukla, Kopel, Mauser, Krug, Lott and Greenwood.

44. The Canadian study was done in support of controversial Federal Legislation which had just passed into law. Proposals for that legislation were set out in a document published in 1994, but announced some time before that. The research was conducted in 1995 in support of decisions which had already been taken and it would be surprising if a government department came up with answers which did not support the Minister's pre-stated decisions. The Canadian Justice Department has been criticised for its poor record of statistical analysis by their Auditor General in his 1993 Report to the House of Commons (Ch 27 cl 27.20 and 27.27). This particular report has been challenged by academics in Canada and elsewhere.

45. The Canadian survey uses only eight selected countries, but the Home Office removed France from their consideration. There is no indication why those countries were selected and there was no attempt to control for the most extreme variations including the fact that attempts are included in the homicide statistics of some countries. Gun ownership figures are not merely suspect, but in some instances, very clearly wrong.

46. We may note that the authors are not sure whether the homicide rate for Switzerland includes attempts, but that for France certainly does. We may also note in the table at the top of page 83 of the 1996 Home Office submission that the gun homicide rate per million in the USA is said to be 6.4 which is confirmed in the graph on page 78. The second table on page 83, the US gun homicide rate is given as 44.6 per million. One of these must be very far out.

47. The work of Professor Killias is the most controversial in this field, and certainly the most condemned. He arrives at figures for levels of gun ownership by means of a telephone survey on randomly selected telephone numbers which were called by "researchers" who asked if anyone in the house had a gun. It seems right to say that few gun owners would respond positively to telephone questions about their ownership of guns.

48. In his first study published in Security J Vol 1. No 3 (Butterworth) Killias said that his findings undermined the myth of the Swiss experience that widespread ownership of firearms did not result in armed crime. His methods and his findings have been subject to almost universal attack, perhaps the vehement being in his own country.

49. When Professor Killias's second article appeared in the Canadian Medical Association Journal in December 1993, it was the subject of an extraordinary response with no less than five detailed attacks on his methodology and conclusions. Killias's answers to them include assertions that he ignored the military firearms which all Swiss males are required by law to keep at home because they are heavy and cannot be concealed. The Swiss Assault rifle is little over two feet long when folded and weighs just over seven pounds. Many shotguns are much longer and heavier. Swiss military pistols differ little from any others in terms of bulk.

50. The Home Office paper infers, in a footnote to page 74, that militia guns in Switzerland can be discounted because their ammunition is kept in sealed boxes which are checked each year and is not available for sale. In fact, the "emergency" ammunition is kept in plastic covered packs which should not be broken, but this is replaced every year and ammunition is on sale at discounted rates at every rifle range and gunshop. In a further comment to Lord Cullen, the Home Office accepted the error on this point.

51. The Killias data is highly questionable, and his conclusions have been continuously challenged, most recently by Professor Gary Kleck in his 1997 work where he re-works Killias's own data to show that it fails entirely to show an international correlation between gun ownership levels and homicide.

52. To further its own claim of a correlation between gun ownership levels and homicide rates, the Home Office paper cites a comparison between Seattle and Vancouver which showed that the homicide rate in the US city was two thirds higher than that of the Canadian city, all the difference being attributable to gun homicide. That study was somewhat discredited when other researchers showed that the entire difference could be accounted for by demographic factors. Both cities have similar white populations and large ethnic minorities. In Vancouver, the ethnic minority is largely Chinese and Japanese whose homicide rate is far lower than that of the white majority. In Seattle the ethnic minority is black and their homicide rate is 10 times higher than that of the white population. Virtually all the difference between the two cities could be accounted for in that way.

53. But the Sloan study was even more deeply flawed because of the way in which gun ownership was estimated. In Vancouver the Firearms Acquisition certificate related merely to the purchase of additional firearms and did not measure actual gun ownership. That fact was published in 1989 by Professor James Wright whilst in the same year Professor Gary Mauser of Vancouver was able to report that gun ownership in the two cities was effectively the same.

54. The Sloan study is used by many authorities in the field as an example of totally flawed research. Professor Gary Kleck has described it as "Arguably the most primitive study of guns-violence links ever published" and Professor James Wright described it in 1989 as, "Little more than polemics masquerading as research". The Home Office can hardly have been unaware of the fact that the study was effectively discredited and their use of it raises serious issues.

55. Those issues become even more serious when it emerges that the Home Office failed even to mention a comparison of gun ownership and homicide rates in Provinces and States along the US/Canadian border. Professor Brandon Centerwall's study was published in 1991 and, from subsequent responses, was known to the Home Office. Centerwall concluded that, although the overall level of handgun ownership in Canada was one tenth of that in the US the rates of homicide in the border States and Provinces were little different. Some Canadian Provinces had higher homicide rates than adjoining States and some lower. The prevalence of handguns in the United States had not resulted in higher homicide rates.

56. In a second response the RSD criticised the Centerwall study because it considered its result in relation to adjoining territories, yet they accepted the Sloan Study which did just the same thing but with much less accuracy. The very least that can be said about this selectivity is that it was unprofessional.

57. In their final attempt to prove a direct relationship between levels of gun ownership and homicide the RSD attempted a comparison between the US and England and Wales; compared homicides and aggravated assaults in London with selected US cities; and then produced additional summaries from the earlier Canadian and Killias data.

58. Their published results raise some important questions. The supposed direct comparison of gun and non gun homicides fails even to attempt to control for any variables, and in particular for levels of existing gun control. It is known, for example, that the homicide rates in some US cities where guns are effectively banned is extremely high, with Washington DC showing a rate of about 80 per 100,000. In less populous areas, the homicide rates are entirely comparable with European and British levels. Centerwall notes that in Vermont where there is effectively no control on firearms, the mean annual rate of criminal homicide over a four year period was 0.4 per 100,000 whilst North Dakota levels were even lower. Had the comparative figures used Britain, instead of England and Wales, we would find that these US States were lower than those in this country, for Scotland has a homicide rate considerably higher than that of England and Wales.

59. The carefully selected table of aggravated assaults in 1993 (Table 4 of the Home Office submission) flies in the face of later studies which must have been ongoing at the time. The Farrington and Langan study referred to later establishes that in 1993 rates of assault in the United States were less than those in England and Wales and that between 1981 and 1996, Britain had overtaken the US in per capita rates of most crimes except homicide. Thus, the Home Office comparison of assault levels in selected cities is at best disingenuous and questionable.

60. The Home Office Research and Statistics Directorate's submission to Lord Cullen and to the 1996 Home Affairs Committee can be seen to be at best unprofessional and at worst biased in the extreme. It was heavily criticised by a number of commentators who raised real doubts about motivation. But the 1996 submission was not the first revelation of the policies being adopted in the Directorate. In 1993, the Director of Statistics entered into correspondence with The Guardian claiming that the relationship between numbers of firearms and rates of crime was absolute and that, if the US had the same system of gun control that applied in this country, it could reduce its overall number of homicides by between 12,000 and 15,000. Mr Nuttall's conclusions appear to have been based almost exclusively on the Killias studies.

61. In an interview given to The Times (24 June 1999) on his retirement, Mr Nuttall made the same claim about the potential for reduction in US homicides through gun control, though he then claimed that the number saved would be 10,000. He was reported in that interview to be "something of an evangelist on the subject of gun control". It is not clear whether that was his own personal claim or whether it was a conclusion drawn by an experienced reporter on what Mr Nuttall said. Such a comment cannot be drawn from the air and it must be that the then Director of Research and Statistics had made clear his personal view with an evangelical fervour.

62. If the submission of the Home Office Research and Statistics Branch was as biased as it proved to be and if its head was a person who regarded himself or was regarded by others as an evangelist on the subject of gun control, there are at least grounds for suspecting that the nature of the RSD response was a product of the evangelical movement within the Home Office rather than a fair appraisal of the statistical evidence.

RECENT CROSS SECTIONAL ANALYSES

63. Acting within the remit of Economic and Social Council of the United Nations, the Commission on Crime Prevention and Criminal Justice recommended that a study be undertaken in member states into the regulation of firearms together with other topics assumed to be related to such regulation. A report was presented to the Commission in May 1997. The document is published as "A Report of the Secretary General to the United Nations on Measures to Regulate Firearms (E/CN.15/1997/4)" and includes a summary of an "International Study" of firearm regulation.

64. The report was produced by an expert group which has been severely criticised for partiality and lack of clarity in its requirements. The survey instrument lacked clarity and some respondents did not know what was being asked of them. Major obstacles to comparability of levels of firearms ownership in different states were not overcome, but two sets of figures give crude levels of firearms ownership which allow very broad comparisons. Figures for firearms deaths are "as reported" and the authors caution about their comparability. Provided the figures are used as a broad indication of levels of harm, some comparisons can be made.

65. The authors of the UN Report draw a series of conclusions which are not justified by their own evidence. The only conclusion which can safely be drawn is that there is no casual relationship between the number of firearms in a State and the levels of death through homicide, suicide or accident.

66. A table on the study purports to show the numbers of firearms licences and, in a number of ways, reflect the number of firearms available to law abiding citizens of the State. These figures are subject to all the shortcomings outlined earlier.

67. Given the known potential for error, relatively small differences between the number of firearms owners and the total number of firearms from State to State should be ignored, but a range of responses from 0.1 to 411 per 1,000 people must allow of some generalisation, with certain countries standing out as having extremely high levels of firearms ownership. These include Australia, Canada, Finland, New Zealand and Sweden, all with firearms levels well over 100 per 1,000 people. Germany should also be placed in that class on the basis of its number of firearms owners. If a second stage is set arbitrarily at 50 to 99, we find Costa Rica, Greece, South Africa, and Spain. Between 25 and 49 we find Argentina, Czech Republic, Estonia, Slovakia and the United Kingdom. The remaining countries either fall into the less than 25 band or did not respond. Figures from a number of countries, including the United States are available from other sources.

68. Another table provides details of the number of deaths in each country under the headings of homicide, suicide and accidental deaths. A larger number of countries are included in this table and the figures will be acceptably accurate in respect of most countries, though the accuracy of records in some countries may be open to doubt.

Accidents

69. The figures show that accidental deaths with firearms are very low, the maximum figure being 0.75 per 100,000 occurring in Brazil, a country with one of the lower levels of firearms ownership. The United States has an accident level of 0.58 per 100,000. Its firearms ownership figures are not shown, but are known to be higher than any shown in the tables.

70. The countries with the highest levels of firearms ownership have levels of firearms accidents lower than many countries with much lower levels of firearms ownership. Australia has an accident rate of 0.11, Canada 0.13, Finland 0.12, New Zealand 0.29, Sweden 0.05 and Germany 0.03. Within that group there is no correlation between levels of firearms ownership and accident rates.

71. In the higher middle bracket of firearms ownership, Costa Rica has an accident level of 0.29, Greece, 0.02, and Spain 0.26. Similarly, in the lower middle band of 25 to 49 firearms per 100,000 the Czech Republic has an accident rate of 0.07, Estonia 0.40 and the United Kingdom 0.02.

72. A simple comparison of firearms ownership rates and accidents involving firearms fails to take account of many other factors. For example, in some countries hunting is carried out largely on public lands, often with relatively large numbers of people on a single tract of land. In other countries hunting is on privately owned land where access is severely restricted.

73. The data produced in the survey provide no evidence of any correlation between firearms ownership and firearms accident levels.

Suicide

74. The great mass of evidence indicates that the suicide rate is not dependent on the availability of one method and that if, by some means, all firearms could be removed from a society, the rate of suicide would remain largely unchanged. The only evidence to the contrary was generated by the change from toxic domestic gas (which has been a significant method of suicide) to non toxic natural gas. Studies in several countries suggested that, though this had resulted in a significant reduction in gas suicides, there had been no overall reduction in suicide rates. One exception was a study in England by Clarke and Mayhew which suggested that the reduction in gas suicide had been accompanied by a significant reduction in overall suicide (though a later study by the same authors suggested that the same was not true for Scotland).

75. The latest analysis of available evidence, which includes a critique of the Clarke and Mayhew study is that done by Professor Gary Kleck who found that Clarke and Mayhew's conclusions could not be supported by the evidence. A now dated time series analyses of Suicide Figures for England and Wales over a long period shows that the suicide rate has been unaffected by massive reductions in legitimate gun ownership.

76. The authors of the UN Survey include details of overall suicide rates as well as firearm suicide rates, something not done in other studies. If the weapon substitution theory is even partially correct, then any conclusions should be drawn on the basis of overall suicide rates and not on the basis of gun suicide rates only.

77. High suicide rates of over 20 per 100,000 occur in Belarus, Estonia, Finland and Hungary, but the proportion of those which involve firearms varies from 0.88 to 5.78 per 100,000 and firearms ownership levels vary from 16.5 (Belarus) to 411.2 per 1,000 (Finland). Estonia and Hungary have relatively low firearms ownership levels. Jamaica and Japan, with firearms ownership levels of 7.35 and 3.28 per 1,000 respectively, have suicide rates of 1.45 and 17.95 per 100,000 respectively. It has been separately reported that the suicide rate in Japan rose by a massive 34.7 per cent between 1997 and 1998 and commentators conclude that this is a product of the economic downturn in that country.

78. The UN survey makes no pretence of controlling for any of the many variables known to influence suicide rates, but even these

crude figures show that there is no correlation between firearms ownership and either overall suicide rates or firearms suicide rates.

Homicide

79. Total homicide rates reported in this survey show figures of from 0.04 to 64.64 per 100,000, but several of them raise issues. The United Kingdom figure for firearms ownership is shown, but the figure for homicide excludes Northern Ireland. If this process had been taken further and England and Wales had been shown separately, the figure would have been even lower at 1.3 per 100,000 whilst Scotland under precisely the same regime of gun control has a rate of 2.1 and the Northern Ireland rate is 2.6.

80. The data in the survey are "as reported" and the authors suggest that comparisons should be made with care. Certainly, the figures differ from those published in other sources, often by significant margins. However, provided that the data are seen as being only roughly comparable, some comparisons can be made.

81. Many of those countries with homicide rates less than 4 per 100,000 people have very high levels of firearms ownership. Australia (2.4 homicides per 100,000), Canada (1.99), Finland (3.25), Germany (1.81), New Zealand (1.35) and Sweden (1.35) are at the lower end of the homicide scale but have the highest firearms ownership rates. Brazil has a high homicide rate in this survey at 29.17 per 100,000 but the number of firearms owners per thousand is shown as only 8.18.

82. A number of countries with firearms ownership levels at or near the 100 mark have homicide rates which are a fraction of that in Brazil. By contrast, Estonia has a total homicide rate of 22.11 per 100,000 but a firearms ownership rate of only 28.56 per 1,000. Jamaica has a very low rate of firearms ownership, but extremely high homicide and firearms homicide rates. In contrast, South Africa features high rates of firearms ownership, homicide and firearms homicide.

The United States

83. Any debate on the effects of high levels of gun ownership is bedevilled by spurious comparisons with the situation in the United States where, in many areas there are high levels of gun ownership and in many areas there are very high levels of homicide and particularly firearms homicide. Commentators within the United States and from outside have suggested that reducing handgun ownership will reduce levels of homicide. But legislation can only reduce levels of handgun ownership amongst those who chose to comply with the law or amongst that tiny minority of illegal owners who may be apprehended and even if the theory was correct, change would be very slow indeed.

84. The debate seems to assume that the United States is a homogenous unit, but that does not seem to be the case. Homicide rates vary from the extraordinarily high level of about 80 per hundred thousand in Washington DC which has a total ban on the ownership of most firearms, to rates less than those in the UK and Europe in States like Vermont which does not allow any restrictions on firearms ownership.

85. The vast array of demographic factors tends to be ignored. For a large number of reasons, many of which are imperfectly understood, many parts of the United States have historically suffered very high rates of violent crime whilst other parts, often adjoining parts, have not. Certainly when guns were uncontrolled in Great Britain the rate of criminal use of firearms was very low indeed, whilst in New York City, for example, it was very high.

86. In the United States the distribution of homicide and particularly firearms homicide varies very widely between racial groups, as it does in other countries. The large and well established Japanese population in the San Francisco area has the same access to firearms as any other group, but their rate of homicide has been shown to be slightly lower than the homicide rate in Japan and very much lower than other groups in the same area.

87. It is unarguable that rural homicide rates, including gun homicide rates tend to be higher in southern states than they are in northern states. It would be farcical to suggest that the quite significant differences are attributable only to the availability of firearms, because firearms are at least equally available in both areas. If causative factors are to be identified, it is necessary to look deeper than that.

88. To isolate the United States from all other countries for the purpose of comparison with the United Kingdom and to suggest that difference in crime rates are attributable to one single factor, the supposed availability of firearms, is so illogical, fallacious and extreme that it should not bear consideration. It is not possible to identify all the variables which are applicable, much less control for them in any study.

89. But those who insist on direct comparisons might care to note that in recent years serious crime has been falling in the United States and increasing in England and Wales. In the Study, *Crime and Justice in the United States and in England and Wales, 1981-96* by Professor David Farrington of Cambridge University and Dr Patrick Langan of the US Department of Justice, compared rates of reported assaults, robbery and burglary in the two countries were compared to discover that in all cases, England and Wales has overtaken the United States. The report was based on both crime victim surveys and police statistics and so is as reliable as any such report can be. The situation was reached in 1996 where the robbery rate in England and Wales is 40 per cent higher than it is in the United States whilst assault, burglary and "auto-crime" in England and Wales are almost double those in the United States.

90. Of even more significance is that the fact that the "hot" burglary rate (burglary committed whilst someone is in the house) involved 13 per cent of burglaries in the United States and about 50 per cent in England and Wales (Wright and Rossi 1986).

91. The report also found that, since 1981, the chances of being caught and convicted of a serious offence have risen significantly in the United States and have fallen in England and Wales for most major crimes. Further, the chances of a custodial sentence are much higher in the United States.

92. The homicide rate in the United States is much higher than that of the United Kingdom and the use of firearms in homicide is similarly very much higher, but it is wrong to assume that the same thing applies to all types of crime.

CONCLUSION

93. Many of the international studies on the relationship between levels of firearms ownership and crime rates have value only if studied with great care taking proper account of the many variables. A time series study in this country shows that no such relationship exists here and a study of the more reliable cross sectional analyses fails to disclose sufficient evidence of any such relationship and tends to disprove it.

94. Attempts have been made throughout this century to reduce levels of crime generally and levels of violent crime in particular by imposing strict controls on access to firearms. These have been applied in most parts the world and over a long period. There has yet to be a single follow-up study which shows that the imposition of controls on firearms, or the tightening of existing controls, has caused any reduction in the use of firearms in crime over time in any particular country or more generally.

95. One of the most significant pieces of research undertaken by the Home Office might offer some explanation for this. In 1996, in response to requests from the Cullen Inquiry, the Home Office conducted a survey of firearms homicides.

96. The original Home Office study has been updated and was last published in the Annual Criminal Statistics for 1997. There may be more information in the 1998 figures when they are available. The study covered a period of three years (1992 to 1994) with total of 151 homicides involving a firearm in which the legal status of the firearm was established. It examined the circumstances of the homicide in accordance with standard Home Office categories. There were 45 cases in which the status of the firearm was not known. The table shows the updated 1997 figures.

<i>Circumstances of homicide</i>	<i>Firearm used</i>	
	<i>Legally held</i>	<i>Not legally held</i>
Organised crime, drugs related, contract killing etc	none	43
Domestic	14	41
Robbery or gain	1	17
Argument, jealousy, revenge	4	17
Other	4	10
Total	23	128

97. The figures are for a period of three years so that each entry should be divided by that number to give an annual average.

98. Home Office classifications may not be the most helpful for these figures. There is no breakdown of the class of firearm involved, but it would be safe to assume that shotguns feature significantly in the small number of homicides in which a legally held firearm was used in the domestic and jealousy categories. These amount to six cases per year. By contrast, illegally held firearms predominate even in those classes of crime. Most of the homicides involving argument, jealousy or revenge will involve people who were well known to each other, as do the domestic homicides.

99. If these figures are added to the significant change in the pattern of firearms use in homicide referred to earlier, the evidence shows that legally held firearms feature in homicide almost exclusively in the type of offence in which the weapons substitution theory is most valid and that the absence of those firearms is unlikely to have affected the outcome of that class of crime. In those cases where the presence or absence of a firearm might be significant, illegally held firearms are used almost exclusively.

100. The statistical evidence shows that extending the already complex and costly system of controls on legally held firearms is a policy which is most unlikely to reduce rates of armed crime or the danger to society. The evidence suggests that a significant simplification of controls, with its resultant saving in police and official time would have enormous benefits, not least of which would be a concentration in those alternative tactics which can be shown to be successful in the field.

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