

Speech by Maryland Attorney General J. Joseph Curran, Jr.

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Symposium: “Guns as a Consumer Product: New Public Health and Legal Strategies to Reduce Gun Violence”

SPEECH BY MARYLAND ATTORNEY GENERAL
J. JOSEPH CURRAN, JR.

THURSDAY, MARCH 9, 2000

In my recent report on gun control, *A Farewell to Arms*,¹ we noted that one critical component of solving the tragedy of gun violence is doing just what this conference is about—looking at guns as a consumer product which must be regulated like any other product in the American marketplace. We have heard experts talk about consumer and public health issues this morning. So I am going to try not to cover the same ground. Instead, I want to take the liberty of speaking more broadly about this issue that I have grappled with for 35 years.

My report, *A Farewell to Arms*, makes several recommendations regarding steps we should take in consumer protection and public health arenas, but it also looks at other strategies. It reflects my long-standing belief that the “fix” for this crisis must be comprehensive. It must incorporate law enforcement measurers as well as public health and consumer protection strategies. And in the end, we must consider the circumstances under which we should allow private handgun ownership at all. Indeed, I was heartened, as many of you may have been, by the recent poll showing that a majority of Marylanders support banning the sale of handguns in our state. But I get ahead of myself. Let me trace:

- 1) How I get to where I am on this issue;
- 2) Why I released my report;
- 3) What it reflects about my vision for the people of Maryland and for this country.

I can still vividly recall the April day in 1976 I learned from a radio report that, in a handgun attack at the temporary City Hall, City

1. J. JOSEPH CURRAN, JR., ATT’Y GEN. SPEC’L REP., *A FAREWELL TO ARMS: THE SOLUTION TO GUN VIOLENCE IN AMERICA* (1999).

Councilman Leone was killed, Councilman Fitzgerald was wounded, and my father had been taken to Mercy Hospital as a result of a heart attack suffered when the assailant fired at him. It was on that day that gun violence touched me personally. But I had felt deeply for a long time that the course this country had taken with respect to guns and gun ownership was wrong.

It was ten years before the attack on my father, back in 1966, that as a State Senator I supported the first piece of gun control legislation—the 7 day waiting period.² In 1972, I chaired the committee that passed the bill requiring an extensive background check at the time of application for a permit to carry. For several years I tried to make this the law at the time of purchase also.

All these many years later, I am still trying to see that happen—it is one of the central recommendations of my report. How much sense does it make that we will not allow a person with a propensity for violence or a history of mental instability to carry a gun to work, but we will let him keep a gun under his pillow? As Attorney General, I fought hard for the bill prohibiting the sale and manufacture of Saturday Night Specials³ and creating the Handgun Roster Board⁴ in 1988. During the course of my tenure as Attorney General, I have supported innumerable bills affecting various aspects of gun control, for example:

- 1) Prohibiting guns on school property;
- 2) Imposing stiffer penalties for gun-related crimes;
- 3) Mandating child-proof safety locks;
- 4) Banning assault weapons.

I also supported the Maryland Gun Violence Act of 1996,⁵ and I applaud the Governor's efforts this year.

So it was against this long history of gun control activism that I decided to release my report this fall—A Farewell to Arms. Why? Why did I pick this particular moment in Maryland's historic and continuing efforts to deal with guns, and to stem the flow of blood from handgun injury and death? In the calendar year before I released my

2. See MD. ANN. CODE art. 27, § 442 (c) (1996).

3. MD. ANN. CODE art. 27, § 36-I (1996).

4. MD. ANN. CODE art. 27, § 36-J (1996; Supp. 2000).

5. See Md. Laws 561, 562. Key components of the Act are: 1) allowing only one gun purchase in a 30-day period, see MD. ANN. CODE art. 27, § 442A (1996); 2) regulation of secondary or private gun sales, see MD. ANN. CODE art. 27, § 442(d) (1996); 3) prohibiting straw purchases, see MD. ANN. CODE art. 27, § 442(b) (1996); and 4) allowing courts to include a provision requiring the surrender of firearms in non-ex-parte protective orders in domestic violence matters, see MD. ANN. CODE art. 27, § 4-506(D)(11) (1999).

report, the nation agonized as we watched the tragedy of the Columbine massacre unfold on national television. This horror followed mass shootings in other school settings earlier in:

- 1) Pearl, Mississippi;
- 2) Paducah, Kentucky;
- 3) Jonesboro, Arkansas;
- 4) Springfield, Oregon.

Then we saw the incident in Atlanta, Georgia, where a disgruntled trader gunned down and murdered nine people and injured 13 others at his workplace. In Los Angeles, five children were shot at a day care center. In Fort Worth, Texas, eight teenagers and adults died celebrating a religious holiday in the sanctuary of their church. But the violence was not, of course, limited to the headline-grabbing mass shootings. In the months before I released my report, an average of almost one person a day was killed in Baltimore City.⁶

You may remember Shenea Counts, the little girl who was killed last summer in the crossfire of a gun battle outside her Baltimore home as she walked down the street for a cup of ice. Or the Park Heights pastor who was gunned down around the same time in a botched robbery outside his home. It is not just Baltimore City—I recoiled at the story of the Prince George's County mother of two who was shot in front of her children as she hung curtains in her living room window. The very weekend before I released my report, 15 people were injured in gun battles.⁷ Just last week, a first-grader in Michigan was killed by her classmate with a gun the boy found in his home. Indeed, every two days, an entire classroom of children die from gun violence in this country. It happens everywhere—in inner cities, suburbs and rural communities. It happens in schools, churches, playgrounds, and bedrooms.

Children everywhere try to hold onto or pretend childhood is still possible amidst all this violence. It is especially tragic at the start of this new millennium, which should hold so much promise. So I issued my report in part because it just got to be too much. There was no single incident—but the cumulative effect of so much daily tragedies finally led me to realize we needed someone to push the envelope—to call for something more than just the next small, incremental step.

6. See Michael Dresser, *O'Malley Predicts Baltimore Homicides will be Fewer than 300 by Year's End*, BALT. SUN, OCT. 14, 2000.

7. See *id.*

There was one more thing than the tragedies themselves: it was Congress' reaction to Columbine. I simply could not believe that in the face of such graphic evidence of the depth of our problem, Congress could not even deal with gun show loopholes. Gun show loopholes!!! With classrooms full of children all over the country dying every week, Congress could not even step up to the plate enough to require background checks at gun shows. And this pushed me over the edge. I realized someone needed to stand up. We needed someone to be honest about what the real answers are. And from that realization flowed *A Farewell to Arms*. In it I have tried to lay out the facts, and to make recommendations which respond to the harsh realities of those facts.

I have gone back to the basics—How many guns do we have?

Answer: We are overrun with guns—in a country of 270 million people, we have more than 200 million.⁸

How do we regulate the gun industry—to keep it from making guns ever more lethal, or to force it to make guns safer?

Answer: We do not.

What are the costs of this widespread gun ownership—in both human and economic terms?

Answer: 35,000 deaths a year, and multiple billions of dollars.⁹

So I asked a second question: What are the benefits to be weighed against these costs?

Honoring the Second Amendment? It is a myth.

Our hunting and shooting heritage? These have nothing to do with handguns.

Finally, self-defense? Another myth. For every justifiable self-defense homicide, 160 people die from criminal homicide, suicide, or unintentional suicide.¹⁰ Guns are used in fewer than two percent of all home invasions.¹¹ Rather than making you safer, hav-

8. See TOM DIAZ, *MAKING A KILLING: THE BUSINESS OF GUNS IN AMERICA*, 69 (1999) (noting that a 1994 survey estimated approximately 192 million guns in America).

9. See Philip J. Cook et al., *The Medical Costs of Gunshot Injuries in the United States*, 282 *JAMA* 447, 451-54 (1999) (explaining that the cost of treating gunshot injuries poses a substantial financial burden to the medical care system); JOIN TOGETHER ORGANIZATION, *HOW COMMUNITIES CAN TAKE ACTION TO PREVENT GUN VIOLENCE I* (1999).

10. See generally Arthur L. Kellerman & Donald T. Reay, *Protection or Peril? An Analysis of Firearm-Related Deaths in the Home*, 314 *NEW ENG. J. MED.* 1557, 1559 (1986); David McDowall and Brian Wiersema, *The Incidence of Defensive Firearm Use by U.S. Crime Victims, 1987 through 1990*, 84 *AM. J. PUB. HEALTH* 1982 (1994).

11. See Kellerman, *supra* note 10, at 1559.

ing a gun in your home significantly increases the chances that a household member will die from homicide, suicide, or an unintentional shooting.

So in a cost-benefit analysis, what we are doing in this country makes no sense. To indulge the minority among us who choose to own guns, we are paying far too dear a price—every tragic day. And it does not have to be this way. Look at the rest of the world.

You have heard these mind-boggling statistics, but indulge me while I repeat them: In 1996, 379 people were killed in New Zealand, Japan, Great Britain, Canada, and Germany by handgun.¹² In the U.S., 9,390 people were killed from handguns.¹³ In Maryland, more than twice the number of people were killed by handguns than in all five counties.¹⁴ In the same year in the same countries (minus New Zealand), 338 children were killed from firearms.¹⁵ In the U.S., 5,285 children were killed from firearms.¹⁶ More children are killed from firearms every year in Maryland than in Japan, Great Britain, and Germany combined.¹⁷

So there is nothing inevitable about the daily violence to which we have all become numb. On the contrary, people from these other countries are struck by how very different life is here. I did an interview with British Broadcasting shortly after the release of the gun report, and they said it again and again—why do we put up with living this way? Well, my answer is: we should put up with it no longer.

Our long-term goal must be to substantially reduce widespread handgun ownership through restrictive licensing. What does this mean? It does not mean, as some in the press and public have tried to say, that I want to “take anyone’s gun away.” What it does mean is that we should restrict the future sale of handguns to those who can show a real, law enforcement need for one. We must, of course, continue to allow handgun ownership for reasonable law enforcement purposes. But the rest of us do not need one, and the cost of allowing us to have one has become too great.

12. See E.G. Krug et al., *Firearm-related Deaths in the United States and 35 Other High- and Upper-Middle-Income Countries*, 27 INT’L J. EPIDEMIOLOGY 214, 215-17 (1998).

13. See JOIN TOGETHER ORGANIZATION, *supra* note 9, at 1.

14. See *Maryland Deaths and Rates Per 100,000, Firearm-Related* (visited Sept. 28, 2000) <<http://www.cdc.gov/ncipc/osp/states/2402.html>>.

15. See Center for Disease Control and Prevention, *Rates of Homicide, Suicide, and Firearm-Related Death Among Children-26 Industrialized Nations*, 46 MORBIDITY & MORTALITY WEEKLY REP. 101, 102 (1997).

16. See HELP Network, *Firearm Injury and Fatality Among Children and Adolescents* (visited Oct. 3, 2000) <http://www.helpnetwork.org/frames/resources_factsheets_children.html>.

17. See *supra* note 15.

I recognize, of course, that this cannot happen overnight. So in the meantime, the report recommends smaller steps designed to reduce the multiple categories of firearm death. First, some common sense law enforcement measures. Gun advocates say “Enforce the laws you have.” So I want to make sure law enforcement has all the tools it needs to do exactly that. I have introduced a bill to allow law enforcement investigating straw purchases and illegal gun trafficking to wear body wires. The feds can, and our state law enforcement officers desperately need this tool also. I also have a bill making all illegal sales, transfers and possession of handguns a felony. Currently it is only a misdemeanor to sell ammunition to a child, or to illegally purchase guns to traffic. This is crazy—we must send a message that these are serious crimes with serious penalties. We also need the help of the FBI in investigating some of these interstate crimes, and the FBI cannot help if the crimes are only misdemeanors.

My report also strongly supports, of course, the Governor’s Smart Gun legislation,¹⁸ which we have already heard about. I have also recommended some of the public health and consumer protection measures we are talking about today. We should regulate guns as a consumer product, like we do almost every other product in America.

Thirty years ago, when the consumer product safety commission was created, NRA Board member and Congressman John Dingle introduced an amendment exempting firearms from the agency’s jurisdiction. The result? Unlike all other products, from lawnmowers to toothpaste, we do not impose any health and safety standards on the manufacture and distribution of firearms.¹⁹

This should end. Congress should place firearms under Federal Health and Safety regulation. As we have discussed today, this would force the gun industry to take the common sense safety measures it has failed to do on its own, such as requiring:

- 1) Mandatory trigger locks;
- 2) Personalized guns;
- 3) Signal showing when a gun is loaded;
- 4) Mechanisms to reduce the likelihood the gun will not accidentally discharge.

To this end, I will be supporting the bill in Congress this year which would give the Treasury Department the authority to impose health and safety regulations on the gun industry. I also intend to urge the

18. 2000 Md. Laws ch. 2.

19. See 15 U.S.C. §§ 2051-2084 (2000).

National Association of Attorneys General to take up the issue for consideration.

Over the longer term, there are other things we can do. We can institute firearm fingerprint licensing and training, for example. Why should we need a license to operate a car, but not a gun? As I said earlier, why the need to show you do not have a "propensity for violence" to carry a gun but not to keep one under your mattress? We should require anyone who wants to own a gun to get a license showing they have the training and qualifications to operate a firearm and they have no "propensity for violence."

Even with all of these measurers, though, people will still die. We will still have thousands of suicides and assaults between family members. So, we need to change our gun culture, and finally end widespread handgun ownership. We need a sea change in public attitudes toward handgun ownership—like we have changed views on smoking and wearing seatbelts. People must begin to see owning a gun as dangerous behavior we do not want to tolerate. So I have called upon teachers, physicians, law enforcement, schools, employers, business owners, and especially parents to begin to make everyone see gun ownership for what it is.

We should outlaw guns in places of public accommodation. Why should we have to worry our child will be killed in a hotel lobby or a movie theater? Schools and law enforcement should teach kids about the dangers of guns. We should ask families to sign gun-free pledges. We should create gun-free zones wherever we now have drug-free zones. Doctors should talk to patients. Parents must talk to children, and to the parents of their children's friends. Maybe then, when this public information campaign has fundamentally changed people's attitudes, we will finally be ready for the ultimate answer.

We may be closer than even I think. As I mentioned at the outset, a recent poll out last week shows that a majority of Marylanders today would favor a ban on the sale of handguns.²⁰

Reaction to my Gun Report suggests there is a widespread need for more drastic measurers than many in government are willing to take. I have had plenty of people criticize my position, of course. But many more than you might think have said how glad they are that someone is speaking the truth.

It is certainly my hope that, probably not within my lifetime, but perhaps within many of yours, we will be ready to lay down our arms.

20. See William F. Zorzi, Jr., *Maryland Voters Favor Ban on Selling Handguns*, BALT. SUN, Mar. 1, 2000, at B1 (citing a survey conducted by Potomac Inc. of Bethesda, Maryland).

To rid our homes and communities of handguns we do not need—of handguns that have maimed and killed too many children and young adults for too long. Thank you very much.