

Members of the Rohnert Park City Council:

My name is Clayton Cramer. I've lived in Rohnert Park since 1987. I am here to tell you that Chief Rooney's presentation about so-called "junk guns" misrepresented hazards to their users, and to tell you that this ordinance is unnecessary for crime control.

Chief Rooney's presentation at the last City Council meeting claimed that these guns are so poorly made that they explode after 40-50 rounds. This claim floored me. How could a gun maker stay in business if even one gun in a thousand actually did that? The lawyers would sue them into bankruptcy.

I located two standard works on firearms product liability law to see how many lawsuits there have been against the companies that this ordinance targets. For the list of manufacturers, I used the Santa Rosa Junk Gun Roster, which is the same one that you would adopt, since this is the same ordinance. The two works I consulted were Bumann's *Compendium of Reported United States Firearms Products Liability Cases*,¹ and Turley and Rooks's *Firearms Litigation, Law, Science, and Practice*.² Bumann represents gun makers; Turley sues gun makers. They cover all reported cases from 1929 through 1993 for Turley and Rooks and through 1994 for Bumann. Except for one out-of-court settlement, their list of suits against junk gun makers are identical. I also did an online search of federal appellate court cases for the years since then.

There was no shortage of decisions involving exploding guns and guns that went off went dropped – but none of these cases involved the "junk gun" makers. Indeed, they often involved some of America's most prestigious gun manufacturers, including the United States Government's Springfield Arsenal. A few cases involved poor quality guns that the Gun Control Act of 1968 prohibited for importation. *None* of the makers on Santa Rosa's Junk Gun Roster had *ever* been accused of making an exploding gun. None of the named manufacturers have *ever* been accused of making a gun that fired

¹ Timothy A. Bumann, *The Compendium of Reported United States Firearms Products Liability Cases: A Synopsis of Civil Litigation Against Manufacturers and Sellers*, 2d ed., (Atlanta, Ga.: Cozen & O'Connor, 1995).

² Windle Turley and James E. Rooks, *Firearms Litigation, Law, Science, and Practice*, (Shepard's/McGraw-Hill, Inc., 1988) and 1993 Suppl.

when dropped.³ Indeed, pretty typical was *Shipman v. Jennings Firearms, Inc.* (1986), where the plaintiff admitted “that the pistol had no design defects and performed exactly as intended.”⁴

Only two cases allege an unsafe gun from these gun makers. One was an out of court settlement with F.I.E. The gun in question lacked a magazine safety, which prevents a gun from being fired while the magazine is out of the gun.⁵ It turns out that lots of high quality pistols lack magazine safeties – including the Glocks issued to Rohnert Park’s police officers. The other case involved Bryco; one of their guns misfired, damaging the hearing of the shooter, who wasn’t wearing hearing protection.⁶

The targeted manufacturers have made millions of guns since 1968, and there is only *one* case that even *alleges* a real defect. Now, I would agree that there are probably cases that didn’t make it in the law books. But if they happen, they must be exceedingly rare – either that, or the lawyers who devote their lives to suing gun manufacturers have decided not to sue Saturday Night Special makers.

There have been more than a dozen surveys that measure how often guns are used in self-defense in the U.S., ranging from as few as 108,000 per year (the NCVS estimate) to as much as 2.45 million uses per year (the Kleck and Gertz study).⁷ It is clear that in the vast majority of defensive gun uses, the gun is not even fired – the mere sight of it causes violent criminals to submit or leave. Even a “Saturday Night Special” is sufficient for the purpose of threatening a criminal’s life, thus protecting his victim from rape, robbery, murder, or aggravated assault.

Is there a value in keeping Saturday Night Specials off the market, in the hopes of preventing criminals from using them? Keep in mind that it is *already* a felony for convicted felons to possess guns of any sort. It is *already* a misdemeanor to transfer a firearm without a background check and waiting period to anyone but a family member here in California. It is *already* a crime to transfer a handgun to

³ *Caveny v. Raven Arms Co.*, 665 F.Supp. 530 (S.D. Ohio 1987); *Diggles v. Horwitz*, 765 S.W.2d 839 (Tx.Ct.App. 1989); *Perkins v. F.I.E. Corp.*, 762 F.2d 1250 (5th Cir. 1985); *Richardson v. Holland*, 741 S.W.2d 751 (Mo.Ct.App. 1987); *Burkett v. Freedom Arms, Inc.*, 299 Or. 551, 704 P.2d 118 (1985); *Shipman v. Jennings Firearms, Inc.*, 791 F.2d 1532 (11th Cir 1986).

⁴ *Shipman v. Jennings Firearms, Inc.*, 791 F.2d 1532, 1533 (11th Cir 1986).

⁵ *McWhorter v. Lee*, 23 ATLA L Rep 87 (1980).

⁶ *Chronister v. Bryco Arms*, 125 F.3d 624 (8th Cir. 1997).

⁷ Philip J. Cook and Jens Ludwig, *Guns in America: National Survey on Private Ownership and Use of Firearms*, (Washington: National Institute of Justice, 1997), 8-9.

anyone under 21 in California. Banning sale of cheap handguns in the hopes of disarming criminals is a waste of time; a local ban on sale is far less restrictive than the existing laws that apply to *all* guns.

Handgun Control, Inc.'s second chairman, Pete Shields, directly stated in a 1976 *New Yorker* interview that their strategy was to ban handguns a slice at a time, until handgun ownership was legal only for police, military, and security guards.⁸ That's why this ordinance has a broad definition of "junk gun" – so broad that it needs a section that exempts police officers from its provisions, allowing them to purchase these "dangerous guns"⁹ – but only adds inexpensive handguns to the Junk Gun Roster. Cheap handguns today; expensive handguns tomorrow.

Please vote No on this ordinance. These guns are not unusually dangerous, and they allow poor people, those who are most likely to be victims of violent crime, to defend themselves.

Thank you.

⁸ Richard Harris, "A Reporter at Large: Handguns," *New Yorker*, July 26, 1976, 57-58.

⁹ § 9.96.040.