

ADDRESS ILLEGAL GUN USE & VIOLENT GANG ACTIVITY

IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.

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✓ Crystal Elinski		
✓ Stephanie Kowalski		

**CITIZENS
CRIME
COMMISSION**

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Mayor Sam Adams
Portland City Hall
1221 SW 4th Avenue Rm 340
Portland, OR 97204

November 16, 2010

Dear Mayor Adams,

Thank you for your efforts to address the alarming gun violence in our community. In particular, efforts to remove illegal guns from the hands of juveniles, and to act proactively to prevent crimes of violence are imperative to maintain the safety of our community. The Citizens Crime Commission is supportive of your proposal for legislation to amend the City of Portland's curfew ordinance. We believe this amendment will support the ongoing efforts of community members, schools, police, prosecutors, outreach workers and probation officers.

For youth who have adjudicated firearms related offenses, imposing an earlier curfew may deter their attendance at late night school or public events, where the chance of violence is greater. Providing these legislative tools for the police to inquire, intervene, and remove guns from individuals who are prohibited from possessing them, is a proactive method to prevent gun violence. We also support providing further support for collaboration between the community, police officers, probation and parole officers that will result in better communication and better outcomes.

Efforts that involve outcome based strategies are an efficient use of public resources. We are supportive of your efforts to end gang violence in our community. Please let us know how we can support your efforts,

Sincerely,



Erin Hubert - Chair Citizens Crime Commission

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Moore-Love, Karla

From: Andrea Meyer [ameyer@aclu-or.org]
Sent: Tuesday, November 16, 2010 4:30 PM
To: Adams, Sam; Commissioner Fritz; Commissioner Fish; Commissioner Saltzman; Leonard, Randy
Cc: Woboril, David; Moore-Love, Karla
Subject: ACLU Testimony on Civil Exclusions before City Council Nov 18
Attachments: ACLU of Oregon Testimony on Agenda 1512 Civil Exclusions.pdf

Dear Mayor Adams and Commissioners:

Attached please find the ACLU of Oregon's testimony for consideration at the November 18 Council hearing on Agenda 1512 (specifically the civil exclusion proposal, Exhibit 5).

Please do not hesitate to contact me if you have any questions. Thank you. Andrea

Andrea Meyer
Legislative Director/Counsel
ACLU of Oregon
(503) 227-6928
(503) 227-6948 (fax)
join www.aclu-or.org

11/16/2010



November 16, 2010

Via electronic and U.S. Mail

Mayor Sam Adams
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Randy Leonard
Commissioner Dan Saltzman
1221 SW Fourth Avenue
Portland, Oregon 97204

Re: Civil Exclusions (Exhibit 5 to proposed Ordinance, amending Chapter 14A.90)

Dear Mayor and Commissioners:

The ACLU of Oregon writes to express our concern with one aspect of the proposed series of ordinance changes before City Council on November 18 (agenda 1512).

The ACLU of Oregon has consistently voiced objection to civil exclusions and we must do so here. As we understand the revisions to Chapter 14A.90, the City will create civil exclusion orders issued by law enforcement for persons who have been convicted of certain crimes and are under the jurisdiction of the court.

To be clear, the ACLU of Oregon does not oppose exclusions when they are issued by the courts. And in the cases contemplated under this new ordinance, persons subject to civil exclusion will already be under the supervision of the courts. While the City cannot impose a duty on the courts to issue such exclusions, the City, in collaboration with the District Attorney, can certainly make it a part of the requested terms for probation or parole (or, in the case of a juvenile, the period under which juvenile court has jurisdiction). It seems reasonable to assume that the judicial system would work to accommodate such exclusion requests.

By handling it through the judicial process, a number of critical safeguards would be retained. First, it would allow the person to be represented by counsel who, in turn, can address issues of variances and other specifics of the exclusion order that would be most appropriate for the excluded individual. That fundamental right of counsel for those who cannot afford one exists only in the criminal not civil context. Second, it would allow the courts, not the police, to be the one to determine sentence and probation or parole terms. Punishment and conditions for criminal conduct should be imposed by the courts, not by law enforcement. Civil exclusions put law enforcement officers in an inappropriate judicial role. Third, by proceeding through the judicial process, it would reduce the risk of mistakes and miscommunication, both in terms of

ACLU of Oregon
Civil Exclusion Ordinance Chapter 14A.90
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identifying the person and the issuance of appropriate variances. In this ordinance, the issuance of variances is left to the discretion of law enforcement; it should be left to a judge.

We have heard second-hand that this ordinance may only affect less than a dozen individuals. If that is the case, then there is really no justification for undermining important due process safeguards. The goal of this particular proposal could easily be achieved without the passage of an ordinance as judges already have the power to issue exclusion orders as part of a criminal sentence.

While we have not had time to fully analyze all the legal issues that arise under this ordinance, we do note that there are differences between this ordinance and the previous drug and prostitution exclusion zones. Those differences may raise significant legal issues.

We urge Council not to proceed with this part of the ordinance and, instead, work through with the District Attorney to institute appropriate and judicially sanctioned exclusion orders.

Very truly yours,

ANDREA MEYER

Andrea R. Meyer
Legislative Director

cc: David Woboril

Moore-Love, Karla

From: Mark Bartlett [bartlett.m@comcast.net]
Sent: Monday, November 15, 2010 10:10 AM
To: Adams, Mayor; Commissioner Fritz; Leonard, Randy; Commissioner Saltzman; Commissioner Fish; Sneath, Kim; Moore-Love, Karla
Subject: proposed City gun laws

Mayor Adams and Linda Meng,

While I appreciate your efforts, the problem is these kids don't care what the laws are, and more of them won't necessarily change their behavior. As always more regulations and rules are borne by law abiding citizens who are not the problem.

You should consult with L A or Phoenix police or So Cal cites that have dealt with this problem longer than we have and have had their experiments run through the test of time and court challenges. They were dealing with these issues twenty or more years ago and have court tested much of what you propose to spend citizen money on attempting. Ask how their enforcement efforts have played out and adopt those successful ideas, rather than attempting to curry favor with ideologs.

/*Some thoughts on the proposed language. I hope in your response you can answer the questions raised.*/

 *Proposal 1 *

What kid will stay in and follow a curfew if he intends to shoot someone?

Do you think that is even a consideration to cause them to pause before acting because they know this rule is in place?

How would any police officer know which kids are violating curfew? How could this possibly be enforced except by chance encounters?

 Proposal 2

If a kid is intent on stealing a gun to commit a crime, and would do so at home from a parent, what could stop them?

If private guns for home protection are locked up, what purpose would they then serve?

It seems you are attempting to shift the blame to the responsible adult or another party beside the one who acts illegally.

Kids do steal from their parents or guardians. Locked guns serve no purpose, but then it is clear that is your preferred outcome.

 *Proposal 3 *

It appears that with this language you attempt to create a back door gun registry when Federal laws do not require such actions by private party owners.

As most kids will buy (or steal) from private parties, who have no reporting obligation, how will this have any impact on the problem of keeping guns from the kids who are the problem?

You ensure legal action from the NRA with this proposal.

What exactly is an administrative fee? a defacto retroactive registration that is not federally required?

It would be my guess that most gun owners don't know their serial numbers and have no reason to. Do you know the VIN number of your car? Most people don't even know their plate numbers.

For example; if a private party acquired 10 or even 20 handguns over time from other private parties, he may never know one is missing or it

may be years until they recognize that.

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Do you penalize that person? They simply won't report it.

Does that help to resolve in any way what you are trying to accomplish?

Private party gun registrations will not be accepted nor complied with, and they are unenforceable. Don't we have more pressing budget issues than to waste funds on pursuing laws that cannot stand. It is irresponsible to waste tax payer money to grandstand while making a moral point that not everyone agrees with, and certainly will fail.

It is clear here you are attempting to punish gun _/owners/_ when the majority comply with State ORS 166, and Federal laws.

*Proposal 4*

I believe the correct language in most Federal references to this situation is a "public building", not a public place, which could be defined as nearly any and every where... (any street or sidewalk etc...is this the intent?

See recent district court decisions on exactly where private extends to on private property. This goes far beyond what you tell our public is your intent.

Please clarify in detail just what you define as a public place.

*Proposal 5*

Sounds like a civil rights issue and as with sit /walk and protesting in the street or sidewalk, etc., you'll be spending our tax dollars on legal challenges. Is that an acceptable cost for short term and temporary deterrence even if in the end it is determined to be illegal? Very short term as I would expect injunctive relief nearly immediately.

It May work for keeping some of the public a bit safer in areas like parks, for that very short period before it is shot down, but... won't necessarily stop the acts.

As proposed are you going to commit enforcement to every park/ playground; every public place whatever that means??

Will you follow know violators or suspects to see if they wander into a park or public park? define public space as you go based upon need? Wouldn't that sort of targeting / profiling violate federal laws?

Using exclusion areas for prostitutes is very different than on kids determined to shoot someone. If they had any respect for rules or others, they would know not to shoot, but that is the problem. No new laws will curtail this if they are determined to do so.

Even if legally sound, I just don't see how these proposals could be implemented unless by chance encounters, or (reliable) informants supplying information as to whereabouts of one who is *_contemplating_* acting illegally? Is that a justifiable reason to stop and search? Again this would be profiling and illegal.

This seems a very complex legal issue, and what you propose seems very unlikely to hold up in court.. I doubt popular will suffice when the language you propose seems to go far beyond that of the established Federal and State laws. This is a waste of Council time and taxpayer funds when you know this will fail. It is irresponsible to pursue these particular proposals as a remedy. .

Mark Bartlett
Mount Tabor

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