

STATEMENT OF
CYRUS R. VANCE JR.
NEW YORK COUNTY DISTRICT ATTORNEY
BEFORE THE COMMITTEE ON PUBLIC SAFETY

December 15, 2011

Res. No. 821 - Resolution calling on the United States Congress to pass and the President to sign into law H.R.591/S.35, which would close the background check loophole at gun shows by establishing a background check procedure for all firearms sold at gun shows.

Res. No. 1122 - Resolution calling on the United States Senate and the President to oppose H.R.822, known as the "National Right-to-Carry Reciprocity Act of 2011," which would allow a resident from one state who has a carry concealed handgun permit to lawfully carry his or her handgun into a different state, regardless of the licensing eligibility standards in the other state.

Good morning, Chairman Vallone and members of the Council. Thank you for the opportunity to comment on two important public safety issues that are at the forefront of our federal government's agenda: the gun-show loophole and the concealed-carry reciprocity mandate. Nothing is more important to me as Manhattan District Attorney than the safety of our citizens. From the day I took office, I have focused heavily on prosecuting violent offenders and getting guns off the streets.

Please let me provide some background regarding gun crimes in New York County.

This year, much like last year, more homicides were committed with a gun than any other type of weapon. Since I took office in January 2010 through the end of November, 62 people have been shot to death in Manhattan. Every time an individual carries a loaded firearm, there is a heightened potential for a catastrophic outcome. In 2010 alone, we arraigned 378 individuals for Criminal Possession of a Weapon in the Second Degree, which is the C felony crime of possessing a loaded firearm.

As you know, we are involved in myriad programs that aim to reduce the incidence of gun crimes. Before I discuss our prosecutions, let me mention that some of these efforts are social initiatives, such as the new "Saturday Night Lights" initiative that has turned a previously-closed gym on Manhattan Avenue and W. 119th St. into a basketball training program open to neighborhood kids aged 12-16. The idea is to give kids an alternative to the street at the hours when they are idle, and therefore most at-risk of encountering violence.

Other programs in which we are involved represent a direct effort to reduce the number of guns in circulation. For example, at our most recent gun buy-back, we took more than 130 illegal guns off of the street. Yet the reality is that even with these types of efforts, illegal firearms remain a threat to public safety.

We are also, of course, involved in vigorous enforcement efforts. This past October, the last five of 14 individuals who were part of the "137th Street Crew" were convicted of a range of crimes involving the possession and sale of crack cocaine and possession of firearms. These individuals used violence, including shootings, beatings and robberies, to protect their narcotics trafficking business, to enhance their own status within the gang, and enhance the gang's street credibility with rival street gangs. They recruited children, particularly girls, to carry their weapons, believing police were less likely to stop them. The defendants possessed 9-millimeter semiautomatic handguns with high-capacity magazines, .380-caliber semiautomatic handguns, .25-caliber semiautomatic handguns, and .32- and .38-caliber revolvers. Their sentences have ranged from rehabilitative programs to 20 years to life, in the case of the gang leader.

This was hardly an isolated instance of gangs and guns intersecting in our city. In early November, my office charged 19 individuals with a range of gang-related crimes committed in the vicinity of 129th street in Harlem. The gang was known by a variety of nicknames: Goodfellas, One Twenty-Nine and the New Dons. They are charged with storing guns as their stock-in-trade; they hid them in easy-to-access but hard for many of

us to imagine places like storm drains, rooftops and mailboxes. Their purpose was not primarily economic but violent: the guns were a tool to protect their turf against rivals.

These cases are troubling for a number of reasons, not the least of which is the demographic of both the victims and the offenders. They are, by and large, young people. And it is not a random group of young people: If you look at a map of Manhattan and put a push-pin at the exact coordinates of every gun crime, an overwhelming concentration is located in Northern Manhattan. This community bears a disproportionate burden when it comes to gun crimes. Indeed, many experts have come to see gun crime as a public health crisis in certain communities.

There is, however, good news. This year, there has been a groundswell of partnership among community leaders, law enforcement, and citizens; they are all coming together to keep guns off our streets. For example, youth summits are being held around the city, and youth advisory groups are forming with the aim of finding creative ways to end gun violence.

In the face of the efforts I have outlined, I would like to tell you, from my perspective as District Attorney, why it is essential that Congress not undermine this groundswell of unity that is building across the city with ill-advised laws that will hinder our efforts.

We have only to look at H.R. 822 – otherwise known as the reciprocal right to carry bill – to see a glaring example of federal legislation potentially undermining our best efforts to keep guns off our streets. This bill, while providing no benefit to society, places law-abiding citizens at unnecessary risk of grievous harm.

As you know, H.R. 822 would require every state to honor permits to carry concealed weapons from any other state, overriding the laws of New York and many other states. If this bill were to become law, individuals who would not be eligible for a permit in New York would be afforded the right to carry a concealed weapon while in New York solely because they hold permits from their home states. Without any discretion or oversight,

New York would be forced to allow individuals to carry a concealed weapon in clear violation of New York State law. Let me be clear on this point: people who New York deems too dangerous to be afforded the privilege of carrying guns would nevertheless be free to stroll through Times Square armed with enough firepower to shoot dozens of people.

Legislators in each of the 50 states crafted their gun laws with careful consideration for the safety of their constituents. In our state, for instance, we prohibit most convicted offenders from carrying a firearm. Moreover, New York, among other things, requires that prospective licensees demonstrate good cause for carrying a firearm, insists that applicants otherwise be of good character, and establishes specific training protocols in order to carry firearms. There is good reason for these requirements, including the fact that New York has densely populated areas, major tourist attractions, and thoroughfares that serve as a main artery to other East Coast destinations. With due consideration to these factors, New York has decided not to honor concealed carry permits from other states, many of which do not have similarly thorough screening and educational elements as part of the permit process.

Stripping New York of the discretion to determine who can carry a concealed weapon when they are temporarily residing in or travelling in New York State would be a danger to New Yorkers, our visitors, and our law enforcement community. H.R. 822 would encourage gun traffickers and other criminals to pass through the state with loaded weapons in their cars and on their person. It would put police officers in the untenable situation of having to know and understand the concealed carry permit process of each and every state, an unrealistic requirement that would make it impossible for law enforcement to know whether someone who is carrying a concealed weapon is doing so legally.

Simply put, no justification exists for overriding states' laws and therefore dramatically reducing public safety. H.R. 822 is a bad idea all around.

In stark contrast to H.R. 822, H.R. 591 would have the direct effect of making New Yorkers safer. H.R. 591 is designed to close the so-called gun show loophole.

Currently, under federal law, only licensed gun dealers are required to conduct background checks before completing the sale of a firearm. Occasional sellers – a term not defined anywhere in federal law – are not required to perform such background checks. It does not take much imagination to see why sellers would call themselves “occasional” sellers for the purposes of selling at gun shows.

New York State is, in fact, one of only six states in the country that has already closed this loophole at the state level by requiring universal background checks on *all* firearm sales at gun shows, including sales by unlicensed dealers. But absent similar initiatives across the nation, gun show loopholes are a very real threat to New York.

All we need to do is look at where the majority of guns that are used in the commission of a crime come from: In New York City, upwards of 90% of crime guns come from another state.

It is not hard to see why. Someone inclined to use a gun in a gun crime would be wise to step out of state to purchase that gun; they can avoid the background check and be assured of securing a weapon, despite their criminal history and laws preventing them from owning a firearm. And as long as there is nothing to prevent them from doing so, New York has no way to stem the flow of firearms purchased without the requisite background checks at gun shows in surrounding states.

H.R. 591 toughens penalties, holds gun show operators accountable, and requires background checks for all sales. Corrupt dealers would be subject to a license suspension, jail time, and significant fines.

These pragmatic changes should be made now. The federal gun show loophole must be closed.

I hope you will join with me by taking this a step further. Recently you may have heard about Attorney General Eric Schneidermann's investigation into the flouting of New York's gun show laws over the past several months. Undercover investigators, who frequently told sellers that they had facts in their backgrounds that would bar them from owning a firearm, were nonetheless sold firearms by sellers. The same holds true for Mayor Bloomberg's announcement yesterday where undercovers, using the same tactics, were able to purchase guns over the internet in violation of federal law. In fact they were able to illegally purchase the same make and model used in the murder of New York City Police Officer Peter Figoski. We need to work together to enforce New York's existing laws and, where necessary, to enhance the laws so that this type of activity does not continue.

New York has benefited from a more than decade-long decrease in violent crime. Together we can continue to move forward by reducing gun crimes and giving all of our communities that same opportunity to flourish. I look forward to working with all of you to make that vision a reality.

**TESTIMONY OF COLIN WEAVER, DEPUTY DIRECTOR OF
NEW YORKERS AGAINST GUN VIOLENCE**

RESOLUTION 821 AND RESOLUTION 1122

Thank you Chairman Vallone and members of the Public Safety Committee for holding this hearing on two important pieces of legislation and for allowing us to testify on each.

Let me first start with Resolution 821, which would call on Congress to close the gun show loophole by requiring a background check be conducted on all firearm sales at gun shows. Background checks are a vital line of defense in the effort to keep guns out of the hands of criminals and have stopped more than 1.5 million prohibited purchasers from buying guns since 1994. But federal law states that only federally licensed firearm dealers, known as FFL's, are required to conduct background checks and this creates dangerous loopholes and gaps that make it easy for convicted criminals, children, and terrorists to obtain firearms.

Criminals and terrorists who know they would fail a background check at an FFL just need to attend a gun show and purchase a gun from a private dealer. We make it too easy for criminals to circumvent the law. In fact, criminals and terrorists know full well how and where to easily obtain firearm in America. An American member of al-Qaeda recently sent out a video message telling followers in the United States to go to gun shows and then use those guns to commit jihad against innocent Americans.

New York City and New York State are arguably more adversely affected by these deadly gaps in federal law than any other city or state. In 2009, 85% of the crime guns in New York City traced by the ATF were first purchased out of state. New York's rigorous, common sense framework of gun laws, which includes requiring background checks on all firearm sales at gun shows, does a very good job of keeping guns out of the hands of criminals. The gaps and loopholes in federal laws means that New York is reliant upon, and punished because of, the lax gun laws in other states.

States that don't require a background check on handgun sales at gun shows are nearly 2.5 times as likely to have guns recovered in export crime guns than those states that do require background checks. These guns are ending up on our streets and are killing New Yorkers.

Despite what you might hear from the gun industry, the vast majority of gun owners support closing the gun show loophole. According to a poll conducted by a Republican polling firm, 85% of gun owners nationwide support requiring a background check on all firearm sales at gun shows.

But these loopholes are about more than statistics and spreadsheets, they are about victims and families torn apart by the loss of a mother, a father, a brother or a sister. While we hear about mass shootings like Tucson and Virginia Tech, gun violence happens around the country, and across New York, every day to families we never hear about. The truth is, when anyone can buy a gun at a gun show – no matter how dangerous the person, no matter how dangerous the gun – no one is free from the threat of gun violence.



While much work needs to be done to pass proactive legislation in order to keep guns out of the hands of criminals, we must also defeat dangerous legislation that would only make matters worse. This is why we support Resolution 1122, which would call on Congress to defeat legislation that would force New York to allow residents from other states with carry concealed permits to carry guns in New York, even if they were unable to qualify to do so under New York law.

New York currently does not recognize out of state concealed carry permits because other states have such lax gun laws and standards when issuing their permits. The system in place as of now leaves it up to each state to decide which other states' permits they wish to recognize. This flexibility allows states to enter into and cancel reciprocity agreements as they see fit. For example, New Mexico and Nevada, two states not known for stringent gun laws, both stopped recognizing concealed carry permits from Utah because Utah's issuing standards have dropped so low. The bill in Congress would force a race to the bottom for public safety standards.

Law enforcement from around New York and around the country oppose this dangerous bill because it would create nightmare scenarios for police on a daily basis. No national database exists to confirm the legitimacy of a concealed carry permit from another state. This bill is also a dream come true for gun traffickers as many out of state permits

are easily forged. This would give the traffickers a free pass to traffic guns to New York, a luxury they do not currently enjoy.

The permit systems in other states have been proven time and again to be seriously, and dangerously flawed. Over just a 6-month period of time in 2007 an investigation by the Florida Sun-Sentinel newspaper found that the state of Florida issued permits more than 1,400 convicted felons. These permit holders included murderers, armed robbers and child molesters.

These flawed systems in other states have real life, deadly consequences. A Missouri man who was erroneously re-issued a concealed carry permit after pleading guilty to domestic violence in 2009 turned around and used that gun to kill his 6-year old son in 2010. In Idaho in 2006, a man was convicted of strangling his girlfriend, a domestic violence offense. The Idaho man was still able to obtain a permit to carry a handgun which he used in 2007 to kill his wife, a police officer and a church official.

New York should not be forced to allow murderers, armed robbers and other convicted felons to carry in this state. All New Yorkers deserve the right to be safe and free from gun violence, but allowing criminals to carry guns in New York threatens that freedom.

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We urge you to pass both resolutions to tell Congress that enough is enough. Thank you for your time and I'm happy to take any questions you may have.

Opposition to H.R. 822 - National Right-to-Carry Reciprocity Act of 2011

The National Action Network (“NAN”), a leading civil rights organization that promotes non-violence and encourages dialogue on how to address violent actions in communities of color, is vehemently opposed to H.R. 822, otherwise referred to as National Right to Carry Reciprocity Act of 2011. H.R. 822 would allow residents from one state who have license to carry concealed weapons to carry their weapon to another state, regardless of the state’s licensing standards. Not only does this bill trample on a state’s right to set their own guidelines on who should be able to carry a concealed gun, it puts communities, where gun violence is already prevalent, at more risk. This bill fails to take into consideration states with strict concealed carry gun laws, and in effect this bill makes the state with the weakest licensing standard the new national law for all states (excluding Illinois). NAN believes that it is irresponsible and unsafe to allow this bill to pass through the Senate.

H.R. 822, as written, will all but eliminate a state’s right to regulate how and who should receive a concealed guns license. This presents a bit of irony, being that Republicans strongly support this bill. Republicans have argued H.R. 822 does not infringe on the rights of a states to regulate; however, we disagree. Under the current system, states have the right to enter reciprocity agreements with other states. If a state does not agree with another state’s license requirement, they do not have to enter into an agreement, or if a reciprocity agreement has been made they can opt out. Under H.R. 822 states will be forced to honor all state’s concealed gun licenses, no matter how paper-thin the licensing standards are for that state. States who do not offer reciprocity, like New York, New Jersey, Connecticut, Maryland, Massachusetts, Rhode Island, California, and Hawaii will be severely affected by H.R. 822, if passed. The only way to escape H.R. 822 is become a state (or territory) that does not issue concealed gun licenses, such as Illinois or District of Columbia.

Standards and requirements vary between states, with certain states mandating more stringent background checks and gun training than others. For example, the state of New York requires all gun license applicants to undergo a background check and a mental health review. In New York, in order to receive a concealed gun license, the applicant must be a resident of New York, must

be 21 years of age or older, and was never convicted of a misdemeanor crime of domestic violence. Another state with strong concealed gun license laws is Maryland. Maryland primarily limits concealed gun permits for occupational reasons; business owners or their employees who make large cash deposits, doctors, pharmacists, private detectives, and security guards. If not for occupational reasons, a resident can only apply for a concealed gun permit if they provide evidence of recent death threats that have been documented by the police. However, if H.R. 822 is passed lower standards will be allowed for people wanting to carry a gun in those states. Some of the lower standards include: minimum age of 18, minimum (or no) training requirements (taking a class online i.e. Virginia), no review of a person's mental health, limited background checks which only includes felony convictions, and in the case of two states, Florida and Utah, you do not have to be a resident of the state to acquire a license. If H.R. 822 is passed, states will not be able to regulate the laws that they created to control who is in possession in public. The bill punishes states with strict concealed gun standards, and forces the state to comply with states that may have a much lower standard.

~~The passage of H.R. 822 will compromise public safety in many cities, such as New York City,~~ by stifling the work cities have done to control gun violence. Allowing untrained and/or emotionally unstable (physical and mental) individuals the right to walk the streets of New York City with a concealed gun will inevitably lead to more gun violence. Arguments will escalate faster since there is higher probability of a gun being present. In situations where deadly or violent force was not necessary, claims of using a gun in self-defense will rise because once again there was a gun present. Since H.R. 822 does not have a provision for a national registry for all individuals with a conceal gun license or a uniformed national law on concealed gun licenses, law enforcement officials job's will be much more difficult. Not only will law enforcement officials have to know authentic licenses from his/her state, additionally they would have to know valid licenses from 48 other states. This will lead the way to individuals forging documents which state they are allowed to carry a concealed gun. These predictable outcomes can be prevented if H.R. 822 is voted down.

This is why NAN urges the Senate to oppose HR.822

December 15, 2011

Statement from Inez E. Dickens
Assistant Deputy Majority Leader of the New York City Council
Committee on Public Safety

Good morning,

Thank you Chair Vallone and the rest of the Public Safety Committee for allowing me to state my reasons on why the Pre-Considered Resolution supporting S.1973, the Gun Trafficking Prevention Act of 2012, which would amend the United States Code by creating the crime of trafficking or assisting in the trafficking of a firearm, should garner support.

This piece of legislation covers five crucial aspects, which are to focus on entire criminal networks, enacting tough penalties for criminals, cracking down on corrupt gun dealers, providing funding for the ATF, and providing protection for responsible, law-abiding gun owners. In all, almost every aspect of gun trafficking is penalized and covered by this legislation.

Unfortunately, New York City suffers from a gun violence epidemic. About ninety percent of guns attributed to gun violence are illegally obtained. Many firearms end up on the street of our city illegally through straw purchasers. Straw purchasers and traffickers face stiff penalties, such as up to twenty years in prison and fined a significant amount of money. So the bill treats individuals who actually engage in gun trafficking and individuals who conspire to gun trafficking, such as straw purchasers, in the same manner.

Corrupt gun dealers face heightened penalties, such as the revoking of their licenses if they are caught selling firearms to traffickers or straw buyers. Corrupt gun dealers will be subject to a license suspension of up to six months and a fine of up to \$2,500 per violation. The majority of gun dealers are law-abiding, so this bill only goes after the minority of corrupt dealers that contribute to the systemic gun violence occurring on our streets. Law-abiding gun dealers are protected by this legislation if they go through a background check before purchasing or selling a gun. For all of these effective measures to be implemented, resources need to be increased for the ATF. This bill will provide the ATF with resources desperately needed to inspect all federally licensed gun dealers and further investigate high-risk gun dealers.

We need to stop the gun violence occurring in the neighborhoods of our beloved city. This comprehensive legislation is a start in the right direction to eradicate the illegal guns on our streets. I am asking my colleagues to support this Pre-Resolution. Thank you.



*THE COUNCIL OF THE CITY OF NEW YORK
OFFICE OF COMMUNICATIONS*

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****FOR IMMEDIATE RELEASE****

December 15, 2011

Contact: 212-788-7116
Release # 109-2011

Statement by Council Speaker Christine C. Quinn
Re: Resolution No. 1122 and No. 821

“Today’s Council hearing on three important gun resolutions will send a clear message to our Federal government that New Yorkers will no longer tolerate the senseless violence caused by gun trafficking to our city. Given Police Officer Figoski’s tragic death we have to look harder at controlling the flow of illegal guns. New York has seen too many victims of gun violence, how many more families need to suffer before something is done? These ~~two~~ resolutions will help but there’s more to do. I strongly support these resolutions and thank my Council colleagues for their support on this issue”

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Mel Wynore

Address: _____

I represent: CB7

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 821/1122

in favor in opposition

Date: 12/15/11

(PLEASE PRINT)

Name: Colin Weaver

Address: _____

I represent: New Yorkers Against Gun Violence

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: D.A. Cyrus R. Vance

Address: 1 Hogan Place NY NY

I represent: New York County

Address: _____

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 59115:35 Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Dominique Shapton
Address: 561 Seventh Avenue NYC 10013
I represent: National Action Network
Address: 561 Seventh Avenue NYC, 10013

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 821,1122
 in favor in opposition

Date: 12/15/11

(PLEASE PRINT)

Name: Allison Dickin
Address: ~~100 West~~ 100 Wall St, NY, NY 10005
I represent: The Center to Prevent Youth Violence
Address: 100 Wall St, NY, NY 10005

Please complete this card and return to the Sergeant-at-Arms