

March 26, 2023

Dear Chairman Prozanski, et al.,

My name is Graham Parks, and I represent North Portland's Precinct 4405 on the Multnomah County Democratic Central Committee. I also represent Multnomah County on the Democratic State Central Committee, and the Third Congressional District on the Democratic Party of Oregon's (DPO's) Standing Committee on Rules.

Unfortunately, Friday's gut-and-stuff proposal for SB 348 has things moving so quickly now that there has been no chance to ask any portion of the Party apparatus to take a formal position. And so I must come before you to oppose the proposed -1 amendments on my own initiative and my own authority -- but rest assured, the sentiments I bring are shared by many of my colleagues in the Party rank-and-file.

As one who has soldiered faithfully under the Party's banner through the Abortion Wars, and who takes pride in our Party's continuing efforts to champion the rule of law for its own sake, I must say -- it is rather awkward to find our legislative caucus here today, like it was Orval Faubus's office circa 1954, playing "let's pretend we don't understand what the Supreme Court is telling us," and making a jolly game of pretextually sabotaging constitutional rights of the people that are (whether we like it or not) RIGHTS, e.g., contra Measure 114's magazine ban:

We have already recognized in *Heller* at least one way in which the Second Amendment's historically fixed meaning applies to new circumstances: Its reference to "arms" does not apply "only [to] those arms in existence in the 18th century. ... Just as the First Amendment protects modern forms of communications, and the Fourth Amendment applies to modern forms of search, the Second Amendment extends, prima facie, to **all instruments that constitute bearable arms**, even those that were not in existence at the time of the founding." Thus, even though the Second Amendment's definition of "arms" is fixed according to its historical understanding, that general definition covers modern instruments that facilitate armed self-defense.

New York State Rifle & Pistol Assoc, Inc. v. Bruen, 142 S.Ct. 2111, 2132 (2022) (citations omitted, emphasis added).

Truthfully, what is the point of a permit-to-purchase system in a state that already has a robust background-check system, other than to (a) re-add the element of issuer discretion on the back end that the *Bruen* court found so repugnant, see *id.* at 2123-24, or (b) arbitrarily place a gratuitous, expensive obstacle between each citizen of Oregon and their exercise of a right the Constitution says the state shall not infringe ("**[B]ecause any permitting scheme can be put toward abusive ends**, we do not rule out constitutional challenges to shall-issue regimes where, for example, lengthy wait times in processing license applications or exorbitant fees deny ordinary citizens their right to public carry." *Id.* at 2138 n. 9.)?

This is a bad look for us. It's time to back away from this issue and end the war, lavishly sponsored though our War On Guns has been. It's over. And we have more important battles to fight elsewhere.

The only good "fix" for Measure 114 will come in the form of a repealer. I do not have high hopes that anyone in the majority will have the courage this session to bring such a thing to the table as we go further into the high season of legislative taxidermy. But I assure you, if you're feeling brave, that a lot fewer of your constituents will be upset if you do it than the gun-control lobbyists want you to think.

I feel duty-bound to point out that neither the Multnomah Dems nor the DPO endorsed Measure 114 last fall. And in fact, when the measure's sponsors asked the Dem SCC at its quarterly meeting last August for the DPO's support, an overwhelming majority of delegates voted to OPPOSE ENDORSEMENT. Measure 114 was manifestly flawed, inequitable, unnecessary, and at points seemingly incoherent in our view even then, and time has not made it any less unloved among those of us who were there to hear the pitch, and told Lift Every Voice Oregon no.

We would not be sad to see it go, if you would only show it the door.

Graham C. Parks

Democratic Party of Oregon
State Central Committee (member for Multnomah County)
Rules Committee (delegate for the Third Congressional District)
Multnomah County Democratic Central Committee (District Leader Emeritus —House District 43)

As a post-script: Below is the message I sent to my Democratic State Central Committee colleagues at the beginning of Measure 114's campaign last summer, which started the conversation among delegates from all corners of the state that led in short order to our collective refusal to give the measure our seal of approval. None of the issues I brought up here are remedied by the proposed -1 amendments before the committee today. Some of them are arguably exacerbated. In any case, I include this as a postscript in the hope that it might guide your own conversations about what exactly we're trying to accomplish here:

Colleagues,

From what I hear, Lift Every Voice Oregon has succeeded in their signature drive for IP 17 and will be delivering their petitions to Salem Friday morning. Bully for them. But this leaves our party with a serious conundrum which deserves our full attention, and not just because of its potential to shape how things line up this fall.

At the core of what we are asking voters to add to our laws with IP 17, beyond the window dressing of "training requirements" and a permitting system given over to the charge of local police(!), is a new, broadly-defined CRIME of possession and status:

"[T]he crime of unlawful manufacture, importation, possession, use, purchase, sale or otherwise transferring of large-capacity magazines" capable of holding more than ten rounds -- which, by the way, are extremely common things to own in a state where over 50% of households are gun-owning, and the standard for built-in magazine capacity in firearms hasn't been in the neighborhood of ten rounds since 1940 or so.

Proponents can (and, in my experience, WILL) justify this one-more-step down over-criminalization's road by bringing up the popular notion that someone in the midst of a mass shooting will somehow be able to "take out" the bad guy with their bare hands in the 1.5 - 2 seconds it would realistically take the imagined psychopath to pop a fresh magazine into his gun after running dry.

You could debate the point all day, of course. But I, for one, think we'd owe the people we'll be sending to prison a better justification for their fates than the liberal version of the "good guy with a gun" fantasy.

And yes, we are going to send people to prison. But not who you think.

We seem to get this Sugarplum Fairy vision in our heads when these types of measures are mooted by the Mothers and the others, of middle-aged white men with big belt buckles being dragged out of their comfortable, split-level homes in the exurbs in handcuffs at dawn by platoons of stony-faced cops in blue windbreakers, followed by a parade of AR-15s from the basement in evidence bags.

But that is never how these things work.

Nine times out of ten, the prototypical "collar" under this new, proposed statutory language will be a low-income Black or Latinx guy from someplace like East Portland or Gresham, who catches the eyes of the police, gets himself or his house searched, and comes out CLEAN-- all except for the pistol he's legally owned and kept for years for self defense (which he may or may not be vaguely aware the Supreme Court has said is his God-given right three times in recent memory).

And because that pistol's magazine can hold twelve rounds instead of ten, because that's the way it was made when it came out of the factory box twenty years ago -- prison for him. Through bitter experience (Violent Crime Control and Law Enforcement Act of 1994, anybody?) we Democrats have learned to be generally more cautious and circumspect about proposals to hand law enforcement new and exciting ways to shunt our fellow citizens from their normal lives into the jaws of the prison-industrial complex, and then leave them to walk the Earth like Cain, branded with the civil death of felony convictions, from the day they touch down till the day they die for real.

...That is, except when it comes to gun control measures -- which, no matter how "common sense" and "sensible" we warrant them to be in our marketing materials, are always backstopped by a regime of harsh criminal punishments for acts that would be legal and commonplace the day before the proposed law goes into effect; or even just for continuing to exist and live day-to-day just as the prospective defendant had before, without doing a single thing new, past the new law's effective date (astute readers will notice the classic American legislative template for Prohibitions of all sorts).

We must oppose this.

We must sober up and shake off those sweet utopian images of Comeuppance, the ones that let us forget -- for long enough to "Do Something!" -- how American policing really works. After

2020, there is no excuse for not knowing already how, and against whom, these new legal weapons we've crafted with love, and given to the police as gifts, will actually be used.

Will you be able to look them in the eye as they're led away?

I close with a cautionary tale of sorts, from p. B3 of the February 4, 1956, issue of the *Montgomery Advertiser*. Even a legislature which makes its laws with great care and (arguably) the best of intentions must inevitably hand its creations off to the law's enforcers. Whoever they may be, into perpetuity.

<p>General Illness The army ounced to- illness of Gorelenko. d not give ber of the ero of the the army</p>	<h2>Negro Leader Fails To Get Pistol Permit</h2>	<p>Lyle Be FE THE B BA EAC Also</p>
<p>cken 75c TEM Motel</p>	<p>A Negro boycott leader whose home was bombed earlier this week has been denied a pistol permit, the sheriff's department said yesterday.</p>	<p>PR</p>
<p>A-L G K D</p>	<p>The Rev. M. L. King and two other Negro clergymen requested the permit Wednesday, Sheriff Mac Sim Butler said.</p>	<p>RA mC</p>
<p>\$2.50 EAT</p>	<p>Sheriff Butler said he declined to issue a pistol permit which King said he wanted for a night watchman at his home.</p>	<p>OF TE</p>
<p>erly Wall Heights Field</p>	<p>He said threats against him have been received "continuously" and he felt the need for a watchman.</p>	<p>HIS</p>
	<p>'COMMITTEE'</p>	
	<p>The two pastors who accompanied him, said King, were the Rev. R. D. Abernathy and the Rev. R. H. Hubbard, who went to the sheriff's office as a "committee."</p>	
	<p>Meanwhile, a Negro housemaid who was one of five parties to a suit against the city's bus segregation laws announced she still intends to withdraw from the Federal suit.</p>	
	<p>Jeanetta Reese, 64, said her husband and a former employer persuaded her to take the action after the husband received a phone call ordering him to get his wife out of town.</p>	
	<p>She told Mayor W. A. Gayle she did not know what she was doing when she signed the suit.</p>	