Stronger Gun Control Laws Will Save Lives

Guns and Crime, 2012

The Legal Community Against Violence (LCAV) is a national public interest law center dedicated to preventing gun violence and to providing legal assistance in support of gun violence prevention.

With nearly 400,000 gun crimes committed every year, the United States has the highest rate of firearm deaths (more than 30,000 each year) among twenty-five high-income nations. Clearly, stronger and more effective gun control laws are needed to keep guns out of the wrong hands and to better protect the public. Furthermore, despite what the gun lobby claims, most Americans are in favor of common-sense gun laws because they understand that such laws will, in fact, help reduce gun violence.

If guns really kept us safe, the United States would be the safest nation in the world, since we own an estimated 270 million firearms—approximately 90 guns for every 100 people. Far from keeping us safe, guns are used to kill more than 30,000 Americans each year and injure approximately 70,000. Guns are also used to commit nearly 400,000 crimes each year. The rate of firearm violence in America far exceeds that of other industrialized nations, where gun ownership is strictly regulated.

Although many people own guns for self-protection, studies have repeatedly shown that a gun in the home increases the risk of firearm-related death or injury to a household member. According to those studies, a gun kept in the home is more likely to be involved in an accidental shooting, criminal assault or suicide attempt than to be used to injure or kill an intruder in self-defense.

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In addition, no evidence exists to support the claim that society would be safer if more people carried concealed guns in public. Evidence shows that permissive concealed carry laws may increase crime. Moreover, common sense tells us that putting more guns into more hands does not make anyone safer: it merely increases the odds that everyday disputes will escalate into deadly encounters.

The fact is that very few federal laws regulate the manufacture, sale or possession of firearms, and those currently on the books are filled with loopholes or significantly tie the hands of law enforcement. The Brady Act, for example, which requires licensed firearms dealers to perform background checks on gun purchasers, does not apply to private sellers, responsible for an estimated 40 percent of all gun sales. Because of this "private sale" loophole, convicted felons and other prohibited persons are able to buy guns easily from unlicensed sellers in undocumented transactions.

Even when a gun is purchased through a firearms dealer, another loophole permits the dealer to transfer the gun to the purchaser if the background check isn't completed within three days. These "default proceeds" allowed nearly 4,000 prohibited persons to purchase guns between November 1998 and November 1999 alone. In addition:

- Federal law doesn't ban military-style assault weapons, 50 caliber rifles or large capacity ammunition magazines. Congress allowed the 1994 ban on assault weapons and large capacity magazines to expire in 2004, despite overwhelming public support for the law. As a result, assault weapons, 50 caliber rifles and large capacity magazines have proliferated on the civilian market.
- Because federal law exempts guns from the Consumer Product Safety Act, no federal health and safety standards exist for domestically manufactured firearms, though such standards do exist for all other consumer products manufactured in America.

Given the loopholes and unreasonable restrictions in our nation's gun laws, it makes no sense to argue that we...
should merely "enforce the laws we already have." We need to strengthen existing laws to give law enforcement the tools they need to keep guns out of the wrong hands, and to ensure that firearms do not endanger public safety.

The sad reality is that gun violence affects all segments of our society. As newspaper headlines regularly show, deadly shootings occur in areas which are supposed to be the safest—including schools, places of worship, office buildings, shopping centers and nursing homes. In addition, unintentional shootings and suicides, while less publicized, occur every day nationwide. No one is immune from the devastation caused by the easy access to guns.

Although the U.S. Supreme Court held, in District of Columbia v. Heller, 128 S. Ct. 2783 (2008), that the Second Amendment protects the right to possess a firearm in the home for self-defense, the Court made clear that the Second Amendment permits a wide variety of strong gun laws. The Court provided examples of laws it considered "presumptively valid," including those which:

- Prohibit firearm possession by felons and the mentally ill;
- Forbid firearm possession in sensitive places such as schools and government buildings; and
- Impose conditions on the commercial sale of firearms.

The Court noted that this list is not exhaustive, and concluded that the Second Amendment is also consistent with laws banning "dangerous and unusual weapons" not in common use at the time, such as M-16 rifles and other firearms for military service. In addition, the Court declared that its analysis should not be read to suggest "the invalidity of laws regulating the storage of firearms to prevent accidents."

Finally, because the Heller case involved a law enacted by Washington, D.C., a federal enclave, the Court did not address the issue of whether the Second Amendment applies to state and local governments.

Sensible gun laws can and do work. Since the Brady Act went into effect in 1994, for example, background checks on prospective gun purchasers have prevented the sale of firearms to more than 1.6 million prohibited purchasers, notwithstanding that law's "private sale" loophole. In addition, studies have shown that a variety of state laws have had a positive impact and can serve as "best practices" for other states:

- Virginia’s one-gun-a-month law, enacted to address gun trafficking, significantly reduced the number of out of state crime guns traced back to Virginia dealers.
- In 12 states where child access prevention laws had been in effect for at least one year, unintentional firearm deaths fell by 23% from 1990-94 among children under age 15.
- Following Maryland’s adoption of a ban on “junk guns,” firearm homicides dropped by 8.6% in the state—an average of 40 lives saved per year—between 1990 and 1998.

Two recent studies looked at the impact of gun laws more broadly. The first report, released by Mayors Against Illegal Guns (MAIG) in 2008, focused on the relationship between a state’s gun laws and the likelihood the state would be a source of guns recovered in out-of-state crimes.

The MAIG report found that states with the highest crime gun export rates—i.e., states that were the top sources of guns recovered in crime across state lines—had the weakest gun laws. That report also found that states that export crime guns at a high rate have a significantly higher rate of gun murders than states with low export rates; and a significantly higher rate of fatal police shootings than states with low export rates.

The second study, released by The Violence Policy Center in 2009, found that states with weak gun laws and high rates of gun ownership have the highest rates of gun death. Conversely, the study found that states with strong
gun laws and low rates of gun ownership had significantly lower rates of firearm-related death.

Sensible gun laws do not "punish" law abiding citizens—they save lives. Legislators nationwide have enacted laws to protect public safety, despite the fact they may impose a small burden on law-abiding citizens and despite the fact that some people will ignore them. For example, we have laws regulating automobiles and automobile drivers (such as speed limits and the use of seat belts), even though some people may find those laws inconvenient and others will violate them. Similarly, laws regulating guns and gun owners (such as requiring buyers to undergo a background check or banning the sale of assault weapons) protect the public, despite the fact that some may find them burdensome and others may ignore them. The reality is that most Americans support sensible gun laws because they realize those laws help reduce gun violence.

U.S. gun laws are among the most lax in the world.

Although our society has become desensitized to high levels of gun deaths and injuries, gun violence is not normal and should not be accepted as an unavoidable part of life in an industrialized country. Gun violence is, in fact, relatively rare in other industrialized nations. Studies have shown that:

- The U.S. has the highest rate of firearm deaths among 25 high-income nations.
- The overall firearm-related death rate among U.S. children under the age of 15 is nearly 12 times higher than that among children in 25 other industrialized nations combined.

The reasons for this great disparity are clear: Americans own far more civilian firearms—particularly handguns—than people in other industrialized nations, and U.S. gun laws are among the most lax in the world.

Although some opponents of strong gun laws—particularly those requiring gun owners to register their firearms or obtain a license—claim these laws will lead to governmental confiscation, there is simply no evidence to support this claim. If it were true, confiscation of lawfully-owned guns would have taken place in jurisdictions that already require gun owners to register their guns or obtain a license (e.g. Hawaii, New York, New Jersey, California, Massachusetts, Illinois, Cleveland and Omaha). The gun lobby can point to no such evidence, however. Moreover, the "slippery slope/confiscation" argument has been taken off the table by the Supreme Court's interpretation of the Second Amendment.

Although many elected officials are reluctant to support rational gun laws because they fear voter rejection, that fear is unfounded. A report by the Brady Campaign to Prevent Gun Violence following the 2008 elections found "no evidence that any candidate, at any level, lost because of support for sensible gun laws. Supporters of common sense gun laws won in Senate, House and state races across the country."

These findings are consistent with nationwide polling data, which show overwhelming public support for rational gun laws. Those polls show, for example, that:

- 92% of respondents, including 91% of gun owners, favor mandatory criminal background checks for all gun purchasers.
- 83% of respondents, including 72% of gun owners, favor registration for newly-purchased handguns, and 85% of respondents, including 73% of gun owners, favor laws requiring handgun purchasers to obtain a permit.
- 65% of respondents favor banning military style assault weapons, and 74.9% favor governmental safety standards for firearms.

This is the grand-daddy of all gun myths. It is used by opponents of sensible gun laws to convey the idea that it is somehow unfair to regulate guns, since human intervention is generally required to fire a gun. That fact, while generally true, does not lead to the conclusion that guns should be free from governmental regulation. Indeed, our
laws regulate the sale and possession of other dangerous instrumentalities, such as automobiles, despite the fact that one could also say that "cars don't kill people, people kill people." Automobiles, unlike guns, are subject to a myriad of federal health and safety standards to protect their owners and the public.

To the extent it is accurate to say that "people kill people" with guns, the gun lobby should actually be supportive of laws that require gun buyers and owners to demonstrate they are able to possess firearms lawfully and responsibly, such as those requiring purchasers to pass a background check, obtain a license and register their firearms.

Further Readings

Books


- Brian Doherty Gun Control on Trial: Inside the Supreme Court Battle Over the Second Amendment. Washington, DC: Cato Institute, 2008.


- Mark Walters and Kathy Jackson Lessons from Armed America. Hamilton, MI: White Feather Press, LLC,
2009.


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