

## DESPAIRING OF GUN VIOLENCE

I received my first gun when I was eight years old, and I carried guns for many years during a 45-year career in the justice system. As a police officer, three of my friends were murdered in the line of duty; I saw two armed men shot to death during a bank robbery; I was almost shot by fellow officers as I (wearing plain clothes) exited another bank that was being robbed; and I faced down—without killing him—an armed man with a gun who had just shot his girlfriend. I know and respect guns, but what I fear are the myths surrounding the value of their ownership and the contribution they make to our safety.

**Reality.** When the men of Concord assembled at the North Bridge on April 19, 1775 to confront the British Army, it was not so much that they possessed firearms that carried the day. Rather, it was their discipline from having been drilled as a militia that provided the victory. Later, when the Bill of Rights was enacted, the Second Amendment was included to ensure that the People—fearful of a standing army—retained the power to organize in resistance to tyranny and to preserve their new republic. Moreover, the southern states demanded the right to maintain state militias to control their slaves.

Initially, in most states, and excepting a few officials, all white men were required to join the militia and equip themselves with a musket. Records were kept and officials knew who had firearms and how well they were trained to perform their public duty. Later, in the Wild West—contrary to movie images—cowboys had to deposit their guns at the sheriff's office on entering most towns.

As America evolved to become a more urban and industrialized society, militias were replaced by National Guards in every state, and the percentage of Americans who personally owned firearms dropped. States began to legislate against the possession of dangerous weapons, such as sawed-off shotguns and machine guns, and prohibited carrying concealed handguns. Regarding these laws, the courts consistently ruled that the Second Amendment preserved the right of states to organize National Guards, rather than an unlimited personal right of gun ownership.

In 2009, the Congressional Research Service estimated there were more than 310 million firearms in America. In the absence of reliable records and based on background checks made on those who purchase from licensed dealers, it appears the total number of guns in America has been increasing by almost ten percent *each year*. Today, there could be as many as 350 million privately-owned guns, far in excess of the current population of 319 million.

Polls show that only 32 percent of all Americans own a firearm, including half of all Republicans and a quarter of Democrats. At 47 percent, southern whites have the highest percentage of guns, and less than 16 percent of all households keeping guns are occupied by a hunter.

While the overall rate of violent crime has also been decreasing in the United States, the vast increase in the total number of guns may be driven by a residual fear of crime; the

consequences of the wars on drugs and terrorism; criminal gangs; glorified violence in movies and video games; and disquiet about growing governmental power and the loss of freedoms.

Legal restrictions on the purchase of guns are largely ineffective for a number of reasons. The process imposed by law on purchases from licensed dealers is unwieldy, and there are statutory limitations on the maintenance of records by law enforcement. Individuals who would otherwise be denied the right to purchase guns can easily use "straw men" to make purchases on their behalf. Many corrupt licensed gun dealers are involved in the illicit trafficking of weapons. It is not difficult to purchase firearms at gun shows and from private individuals. Finally, the hundreds of thousands of guns which are stolen each year during burglaries and other property crimes become readily available on the streets.

Police officers undergo rigorous training in the use of the firearms they carry, including the law and policy; alternatives to gun deployment; awareness of the background of targets; and self control of physical and mental faculties during highly stressful situations. Even so, viral videos of contagion shootings—wherein multiple officers fire off a fuselage of shots at unarmed or mentally impaired individuals—and other out-of-policy and illegal shootings by officers regularly appear on the Internet and television. With the proliferation of open-carry laws and the authorization of concealed weapons for untrained people, the United States is also experiencing a vast increase in accidental and unjustifiable deliberate shootings by untrained civilians armed with the same weapons carried by law enforcement officers and soldiers.

**Insanity.** With the highest level of gun ownership in the developed world, the U.S. also suffers the greatest gun violence—by far. Americans are 20 times more likely to be killed by a gun than the citizens in all other developed nations. We recognize the names and stories of the most violent and senseless incidents—Columbine, Sandy Hook, Aurora, Virginia Tech, Binghamton, Killeen, Tucson, Charleston, Lafayette, and Parkland; however, these media sideshows represent only a small percentage of the mind-boggling totals. According to the Center for Disease Control and Prevention (CDC), there were a total of 33,636 firearms deaths and 84,258 firearm injuries in 2013, the last year for which complete statistics are available.

As horrible as these numbers are, the insanity of a modern urban society allowing itself to become saturated with deadly firearms is demonstrated by the harm done to children. Almost 75 percent of all children murdered each year in the entire developed world are killed in the United States—American children have a 17 times greater chance of dying of gunshot wounds. Children between the ages of five and fourteen in the U.S. commit suicide at twice the average of other developed countries, with firearm-related suicides being ten times the average. About one-third of all American children live in a household with a gun, and one in five have witnessed a shooting.

In addition to the murder of children is the horrific rate they suffer from accidental deaths and serious injuries in the United States as a result of the prevalence of firearms. Children younger than 15 years are nine times more likely to die from gun accidents than in other developed nations—mostly at the hands of friends and relatives. Guns are now killing three thousand American children and injuring seven thousand each year.

Just one of these cases demonstrates the craziness of allowing deadly weapons in the hands of children. Small .22-caliber "Cricket" rifles—as many as 60,000 per year—are marketed with colorful stocks as "my first rifle," and a Kentucky family presented one to their five-year-old son. Believing the weapon was unloaded, the boy's mother left him in the house playing with his gun. Unsurprisingly, the boy shot and killed his two-year-old sister—the children's grandmother said it was "God's will."

Added to the tragedy suffered by these families in the increasingly punitive American society is the prosecution of grieving parents for having failed to prevent the deaths of their own loved ones. The greater crime is the one committed by society as a whole—which shares the responsibility for allowing the grave risk of danger to little children to continue unabated.

The insanity of the murder and mayhem inflicted on the children of America is easily verifiable—a more difficult question is the effect high levels of actual gun violence and imaginary gun violence seen on television and played out in computer games will have on future generations. It may be that, as a republic, America is sowing the seeds of its own destruction as gun violence overwhelms its ability to protect public safety in a manner consistent with the values of a free and democratic society.

**Fantasy.** Following the Civil War, the National Rifle Association (NRA) was organized by former Union generals to improve rifle marksmanship, since only one-in-a-thousand shots fired by Union soldiers hit their targets. The NRA organized rifle clubs and advised state National Guards on how to improve marksmanship. It supported the National Firearms Act of 1934, the Federal Firearms Act of 1938, and the Gun Control Act of 1968—which collectively regulated machine guns and other "gangster" weapons and established a system of federally-licensed manufacturers and dealers. Since that time, however, the leadership of the NRA has become increasingly radicalized, and it has become one of the most powerful political lobbies in the nation. It obstructs all gun control measures and defends the right of individuals to possess the weapons of their choice, including assault rifles, high capacity magazines, and armor-piercing bullets. Financially contributing to more than half of all members of Congress, the NRA opposes regulation. Instead, it promotes gun-safety education and increased sentences for gun-related offenses—since "people, not guns, commit crimes." The NRA believes society would be safer if more, better-trained people owned more firearms to defend themselves against gun attacks. To this end, the NRA encourages children as young as five years to own firearms and participate in gun sports and that teachers be armed in their classrooms.

The NRA's Eddie Eagle program teaches children to not touch found guns and to inform an adult. Evaluation of the program reveals that young children cannot resist picking up and playing with guns, irrespective of their indoctrination. All too often in families that keep firearms, children accidentally shoot their playmates, siblings and parents.

In 2012, a mentally disturbed 20-year-old boy shot his mother—a gun enthusiast who had taught him target shooting—and then went to the Sandy Hook school where he shot 20 children and six teachers before killing himself. The NRA's response was to oppose gun-free zones at schools and to advocate arming teachers and deploying armed police officers in all schools.

After 32 students and faculty were murdered at Virginia Tech in the deadliest shooting by one person in U.S. history, the NRA recommended that students be allowed to carry concealed weapons on their campuses. Its lobbyist said, "Police can't stop the crime, only the victim has a chance to stop it." Instead of calling for more guns on campuses, survivors and the families of the Virginia Tech victims established a foundation to "address issues that contribute to violence such as bullying and mental health."

As a result of the NRA's efforts, eight states now allow their college students to be armed. The deadly combination of youth, alcohol, and guns has forced affected colleges to divert funding from education to security. Confronted with the same high risk factors, the military prohibits most troops from being armed on bases outside of combat zones, or during recruiting duties.

According to the Small Arms Survey, the manufacture of personal firearms in the United States is a multi-billion-dollar industry with thousands of businesses holding federal licenses. The industry produces most of the guns and accessories sold in America and is the world's leading small arms exporter. Manufacturers and dealers have organized the National Shooting Sports Foundation (NSSF) to lobby against government regulation. The foundation claims the gun industry contributes \$33 billion to the U.S. economy each year.

On the other side of the equation, it is impossible to accurately calculate the financial impact gun violence has on American society when justice system costs, security procedures, and reductions in the quality of life are added to medical care expenses. The best estimate by the Pacific Institute of Research and Evaluation places the annual economic cost of the gun industry at \$174 billion—more than five times its contribution.

It is pure fantasy to imagine that arming everyone—even assuming improved screening, a high level of training, and an increased sense of owner responsibility—will significantly improve public safety. By every measure, having a gun in a household increases the risk of death and injury. Research reported in the *New England Journal of Medicine* found that living in a home with guns increased the risk of homicidal death by between 40 and 170 percent. Another study more precisely concluded that the presence of guns increased the risk of homicidal death by 90 percent. Women are more than three times as likely to be murdered by guns in the hands of their husbands or intimate acquaintances than by guns, knives, or other weapons wielded by strangers.

Rather than providing protection, possessing a gun actually increases the risk that a person will be shot during an assault. Armed victims of assault are 4.5 times more likely to be shot than unarmed persons. The possession of a gun by a victim escalates, rather than reduces, the potential of violence. Relying on the Bureau of Justice Statistics, the Violence Policy Center found that for every homicide case in which a gun was justifiably used, there were 44 criminal homicides.

Despite these facts, the ultra-conservative American Legislative Exchange Council (ALEC)—which advocates the interests of big business in state and federal legislatures—has promoted "stand-your-ground," or "shoot-first" laws around the country. The law, drafted by the

NRA, provides a statutory defense for people who use guns in self defense during confrontations in which they feel threatened. (George Zimmerman used the Florida statute to escape conviction after he killed Trayvon Martin, an unarmed teenager.) According to NRA official, Wayne LaPierre, the law has "a big tailwind" as it has been adopted, in one form or another, by 25 states.

Following every mass shooting, one of the first questions asked is the mental state of the shooter and how he was able to obtain firearms. There are no easy answers since differing levels of mental competency are involved. Criminal defendants can rely on the defense of insanity only if they are found to be incapable of determining right from wrong. This is very difficult to prove, as people can exhibit a wide range of personality, emotional, and mental problems, while retaining the ability to understand and appreciate the nature and consequences of their actions.

Many Americans receive psychiatric care and psychological counseling, and the willingness and ability to confront and resolve one's emotional issues is considered a healthy thing to do. What is hard to determine is whether an individual's mental problems pose a risk of harm to themselves or others to the extent it justifies a deprivation of the right to own firearms. This is because most interactions between patients and their therapists are necessarily privileged and confidential, and due process considerations make it very difficult to involuntarily commit mentally ill people.

Examining two recent mass killings, we find evidence that both shooters had mental problems. Given the ready availability of firearms—legal and illegal—could these massacres have been prevented?

Dylann Roof, the 21-year-old high school dropout who shot and killed nine people in a Charleston church had been arrested several times for drug possession and was convinced black people were "taking over the world." He said he wanted to start a "race war" and was "looking to kill a bunch of people." He posted that "N----- are stupid and violent." Using birthday money, he legally purchased a .45-caliber semi-automatic pistol. As he shot down his black victims while they prayed in church, he said, "I have to do it. You're raping our women and taking over the country. You have to go." As bigoted as his statements may have been, it is unlikely they would have been enough to have had him civilly committed, or to now serve as a legal defense at his criminal trial.

John R. Houser, the 59-year-old bar owner who shot and killed two women and wounded nine others in a Lafayette theatre had once been hospitalized for psychiatric care. Hatred of women and domestic violence compelled his family members to hide his guns and obtain court protective orders. He ranted about white supremacy, displayed a swastika, and wrote about the power of a "lone wolf." Despite this threatening behavior, he was able to legally purchase a .40-caliber semi-automatic pistol. Following the shooting, he committed suicide rather than be arrested.

These and other mass shooting cases are exceptional only because of the number of victims. Most gun assaults and homicides are committed by individuals who are emotionally disturbed, but who could not be committed or locked up. In cases of armed assaults and suicides,

it is the ready availability of a firearm that allows an angry or depressed person to use a gun under conditions where otherwise there would be a much lower risk of harm to the individual or to others. It is fantasy to believe these troubled people could ever be properly identified and effectively deprived of access to firearms.

Only 32 percent of Americans own guns—but they own a lot of guns. If one-third of the population were infected with a contagious deadly disease, would the majority of the people, and their representatives, be justified in taking preventative steps to protect the public health?

**Responsibility.** Traffic accidents are one of the leading causes of death and injury in the United States with the CDC reporting 33,804 deaths during 2013, but firearm-related deaths are closely tied at 33,636. In several states, there are now more deaths from firearms than automobile accidents. Overall, while the rate of firearm deaths has been rising, the rate and number of traffic deaths has been falling as a result of effective government safety regulations for both drivers and vehicles.

Few people doubt the wisdom of requiring seat belts and air bags in cars; for transporting young children in approved car seats; that cars are registered; that drivers are educated, tested, and licensed; that they obey the rules of the road; and that they are required to have liability insurance. However, any legislative or executive action to regulate the safety of firearms or the ability of individuals to obtain and carry them is met with defiant resistance by the politically powerful gun lobby—and the politicians they bribe with campaign contributions.

Using a vehicle as a weapon is considered to be an assault with a deadly weapon (ADW) in most jurisdictions; however, one rarely hears about cars being used in that manner. All too often, road rage manifests itself with one driver shooting another. Automobile ADW is so rare that there are no readily available statistics to determine its frequency. Just imagine, however, the fear and outrage if there were 21,175 intentional fatal traffic collisions each year in the United States—which is the number of firearm suicides recorded by the CDC in 2013. Or, if cars were used as weapons almost a half million times each year—which is the number of Americans who reported they were victims of a crime involving a firearm in 2011 during a survey by the National Institute of Justice. Would drivers feel safe knowing that cars approaching from the opposite direction at a high rate of speed were being operated by unlicensed ten-year-olds?

Guns are the only consumer products that are not subject to federal regulation, and *it is not the Second Amendment that prevents the registration of guns in the same manner as vehicles and the testing and licensing of gun owners as is required for all drivers*. This fact was made clear by the U.S. Supreme Court in 2008 when it struck down a ban on the possession of handguns (*District of Columbia vs. Heller*) as violating the right to personally bear firearms. Regarding regulation, the court said its "opinion should not be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms."

The Court explicitly did not address the District's licensing requirement that had been upheld in the lower court, which ruled: "Reasonable restrictions also might be thought consistent with a 'well regulated militia.' The registration of firearms gives the government information as to how many people would be armed for militia service if called up." While the Court now says the Second Amendment confers a right to personally own a gun outside of a militia, the right is subject to reasonable regulation.

The Court's opinion was delivered by Justice Scalia, who interpreted constitutional meaning as it was understood at the time of enactment. Since militia members and their weapons were subject to government inspection and regulation at the time the Amendment was enacted, it would not seem unreasonable to expect that even the conservative branch of the Court would uphold firearm registration and licensing of owners similar to that presently imposed on the ownership and operation of automobiles, or the carrying of concealed handguns. Necessarily, reasonable regulations would have to preserve due process and could not be so onerous as to constitute prohibition.

Since a minority of Americans own guns, the primary obstacle to responsible regulation of firearm ownership is the combined power of the NRA, NSSF and ALEC, which have mastered the political tactics of legal bribery, negative campaigns, and intimidation litigation. Even so, state and federal legislators brave enough to endure the wrath of the gun lobby would undoubtedly find broad public support for firearm registration and owner licensing. In a survey conducted in 2014, 72 percent of respondents said they would favor "a law which would require a person to obtain a police permit before he or she could buy a gun," although other surveys indicate growing support of gun rights.

Even with reasonable registration and licensing, firearms would continue to pose a significant danger to public safety due to their overwhelming proliferation throughout American society. Therefore, additional, constitutionally acceptable, steps would have to be taken to further reduce the threat.

It is far too quick and easy for an angry person to point a finger wrapped around the trigger of a gun and apply slight pressure—thereby destroying the lives of the victim *and the shooter*. Efforts to protect both must deal with the fact that gun violence is often a consequence of other psychological and social issues, such as domestic violence, child abuse, and bullying of the perpetrator. Even without guns, these causative factors can manifest themselves in violence, albeit at a far less deadly level.

In addition to teaching small children to avoid picking up a gun, they must also learn to respect the equality of others and to avoid violent behavior. Children are more capable of acquiring empathy and experiencing positive interpersonal relations, than resisting playing with an attractive deadly toy. There is clear evidence that children can be taught to resolve conflicts and problems without resorting to violence. School-based anti-bullying programs have become widespread and have been successful in reducing violence among students.

Just because Americans have a right to own firearms does not mean that they have to do so. The percentage of individuals who own firearms continues to decrease. People can continue to freely choose to give up their firearms and to live, more safely, without them—both personally and as a society. There have been some successes with "buy back" programs whereby people are paid for their guns. All too often, however, the guns turned in are old, defective, or obsolete. What is needed is a broad-based grassroots movement to encourage the American people to participate in achieving a voluntary and massive reduction of operable firearms in their own homes and communities.

Imagine an innovative national program whereby surrendered and confiscated guns are welded into massive peace sculptures in front of local courthouses, police stations, and other public buildings. Competitions could be held for artists to design unique works of art for each location. Instead of blood running down the sidewalks, let it be rust, as these monuments to nonviolence slowly grow with discarded weapons and become more interesting over the years. Just as those who fight and die for freedom are honored, those who nonviolently strive to achieve peace should also be memorialized. Perhaps, some day Americans will look at these sculptures in amazement and recall a time in when people owned machines designed to kill other people and how they voluntarily overcame their addiction.

**Reflections.** As an eight-year-old farm boy with my first gun, I decided to shoot a hole in a nickel so I could wear it on a leather thong around my neck. Missing it several times, I very carefully balanced the coin on top of the rifle muzzle and pulled the trigger—watching closely to see what would happen. The bullet disintegrated and laced my forehead with lead. I never found the coin, and I did not tell anyone what I had done. I probably told a fib about hitting my head. Had the rifle been an inch lower, however, I might have been blinded and this story would have a different ending.

As a young police officer, I was cleaning my revolver at the armory workbench when another rookie standing behind me decided to "dry fire" his gun. He had forgotten that he had loaded his revolver, and the bullet passed just above my right ear into the wall. Had he been aiming an inch to his left, I would not be around to tell the story.

Although there were several situations during my service when I would have been legally justified in shooting someone, I never did. There was, however, one time when I might have, but was unarmed. One night, two men tried to rob me as I was walking home from the store on a dark side street. One hit me in the face with a bottle of wine before breaking it over my head. I was able to fight them off until they ran down the street, but in my fury, I probably would have shot one or both if I had a gun. I remain thankful I was spared having to ever take the life of another person.

Many years ago, I acquired a .22-caliber magnum rifle from a client for safekeeping. It was unlikely the gun had been used in a crime, but my client never requested its return, and I still have it safely stored in my home. There is a box of bullets for its magazine, and I would undoubtedly use it to defend my family or myself if I had no other choice, but I would rather contribute it to the construction of a monument to nonviolence in my city. I do not think I am



either naive or foolish, and I believe there are many thousands of other thoughtful people who would make the same choice. Together, we can courageously create a reality in which children are safe, and they are allowed to grow up in a responsible society in which sanity, rather than fantasy, prevails.

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