

CHAPTER 2

The Limited Importance of Gun Control from a Criminological Perspective

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An Erroneous Mantra

Carefully tailored gun controls can marginally reduce gun violence rates. But criminological research does not support claims that gun availability to ordinary people promotes violence. The oft-heard mantra “more guns equal more death, fewer guns equal less” cannot be squared with U.S. experience since 1946 (the earliest time for which reliable figures on murder and gunstock rates exist). That year those rates were 34,430 guns and 6 murders per 100,000 population. As of 2000 the gunstock rate had swelled to 95,500 but the murder rate was only 6.1 per 100,000.¹ Though murder rates varied greatly over the intervening years, those variations bear no apparent relation to the vast increase in guns.

The per capita accumulated stock of guns (the total of firearms manufactured or imported into the United States, less imports) has increased in recent decades, yet there has been no correspondingly consistent increase in either total or gun violence. . . . About half of the time gun stock increases have been accompanied by violence decreases, and about half the time [they have been] accompanied by violence increases, *just what one would expect if gun levels had no net impact on violence rates.*²

The total gunstock quintupled from almost 48.5 million in 1946 to almost 260 million in 2000.³ Yet, the murder rates for 1946 and 2000

were almost identical. This noncorrelation helps support the general criminological conclusion that violence rates reflect basic sociocultural and economic factors, not the mere availability of any particular form of weapon.

A half-century of evaluations of gun controls has yielded four largely negative findings: (1) gun availability does not *cause* ordinary law-abiding adults to kill, though guns facilitate violence by criminals; (2) victim gun ownership deters crime and allows self-defense; (3) though reasonable, gun bans to criminals and the irresponsible are very difficult to enforce; and (4) without guns, people intent on crime or suicide make do with other means.⁴ Indeed, a 2003 study by the vehemently anti-gun Centers for Disease Control and Prevention concluded that no gun control had so far been shown to reduce violence.⁵

Basic U.S. Gun Statistics

By 2003 the United States had about 272 million civilian-owned firearms, with handguns estimated at almost 100 million. If new gun sales continue to increase at the 4–5 million per year rate of the last few decades, by 2005 the civilian gunstock will exceed 280 million, roughly 105 million being handguns.⁶

These figures reflect raw production and import-export data but take no account of factors that both increase and decrease gunstock by unknown amounts. Unknown numbers of guns were destroyed over the years by poor maintenance or after police confiscation. Conversely, unknown numbers of guns were added to the total gunstock through unrecorded imports (e.g., war souvenirs) or sale to civilians of old police and military weapons.

Gun ownership can be estimated from survey data, but these are even less reliable than production data, for large numbers of owners won't admit they own guns.⁷ Nevertheless 40–45 percent of households admit they have guns, with an average of four owned per household. About 25 percent admit having handguns.⁸

Every category of gun death sharply declined during the 1990s. Gun murder declined from 17,746 in 1991 to 10,801 in 2000 (down from 7 deaths per 100,000 population to 3.9); gun suicide from 18,526 to 16,586; and fatal gun accidents from 1,441 to 776.⁹

The murder decline may be partly attributable to criminal attacks being deterred by increased victim access to guns (see later discussion). But gun suicide and fatal accidents also declined. This obviously cannot be attributable to increases in defensive gun ownership. What is clear is that the 1990s data do not support the “more guns equal more death” mantra. During that decade, the addition of 47 million new guns (and the enhanced availability of guns due to the issuance of 3.5 million concealed carry licenses) coincided with a more than 25 percent decline in overall gun death.

International Comparisons

Murder rates are much lower in Europe. Comparisons of the United States to a few low gun ownership European nations are routinely advanced as supporting the mantra. But when broad, nonselective comparisons are made, nations with more guns do not seem to have more murder. Norway has Western Europe’s highest gun ownership (32 percent of households) yet its lowest murder rate. Norway’s cross-Baltic neighbor Holland has the lowest European gun ownership (1.9 percent) but a 50 percent higher murder rate. Completing the pattern of noncorrelation, Sweden, with gun ownership midway between Norway and Holland (15.1), has a higher murder rate than Holland and a much higher rate than gun-laden Norway. In turn, Sweden’s murder rate is lower than its cross-Baltic neighbor Germany, although Sweden has twice the gun ownership. Spain, with twelve times more ownership than Poland, has a 50 percent lower murder rate. Finland, with fourteen times more gun ownership than neighbor Estonia, still has the lower murder rate. (The bases for these comparisons—and countless similar ones—are the data set out in tables 2 and 3.)

The mantra is often supported by claims that the United States has the developed world’s highest gun ownership (true) and its highest murder rates (false). This mistake came from the USSR’s embarrassed falsification of Russian murder rates. Recent revelation of thirty-five years of accurate Russian rates shows they consistently exceeded those of America, despite Russia’s decades of banning handguns and severely restricting other guns—with enforcement so drastic that few Russian

civilians have guns and murders rarely involve them. As of 1998–2001 murders per capita in the former Soviet Europe (Lithuania, Latvia, Ukraine, etc.) are two to three times higher than in the United States, while in Russia they are four times higher.¹⁰

Broadscale comparisons among developed nations do not show those with higher gun ownership rates having distinctively higher murder rates. Using “homicide and suicide mortality data for thirty-six nations (including the United States) for the period 1990–1995,” compared to gun ownership rates, there was “no significant (at the 5 percent level) association between gun ownership and the total homicide rate.” In a later study of twenty-one nations, “no significant correlations [of guns] with total suicide or homicide rates were found.” This is also true internally: high gun ownership regions in Switzerland, Canada, England, and the United States do *not* have higher murder rates than low ownership areas.¹¹

Advancing a Red Herring

In lieu of evidence that more guns equal more murder, the mantra’s supporters assert that “More Firearms = More *Firearms* Violence.”¹² Even this is not consistently true (see table 3). More important, it is irrelevant. The point of gun bans is to reduce death. Proving it works requires showing fewer deaths *overall*, not just that gun deaths fell while other kinds of violent deaths rose with no net difference.

Murderers seem able to find guns even in nations where gun ownership is low. Or they kill just as well with other weapons. As for suicide, in nations where guns are less available, comparable or greater numbers of suicides occur by other means.¹³ Many European nations celebrated for banning guns have double or more the U.S. suicide rate. Gunless Russia’s suicide rate is four times higher than that of the United States, just as is its murder rate. The thirty-six- and twenty-one-nation comparative studies show that lesser gun availability does not mean less murder or suicide. At most it means only fewer such deaths with guns. The consistent noncorrelation to gun ownership shows once again that high murder or suicide rates are attributable to basic sociocultural and economic factors, not mere availability of some particular weapon.

Failure of Foreign Gun Laws

Though it is often assumed that Western Europe's low murder rates stem from strict gun control, this is not true. The rates were far lower yet before World War II, when Europe had virtually no gun laws. Stringent laws appeared in the turbulent post-World War I era—aimed not against ordinary crime but against political violence. They failed to stem either. From World War I on, violent crime has plagued all Western nations regardless of their gun policies.¹⁴ The following summary comes from a recent history of guns, gun laws, and violence in the United Kingdom.

When it had no firearms restrictions England had little violent crime, while the present extraordinarily stringent gun controls have not stopped the increase in violence or even the increase in armed violence. . . . Armed crime, never a problem in England, has now become one. Handguns are banned but the kingdom has millions of illegal firearms. Criminals have no trouble finding them and exhibit a new willingness to use them. In the decade after 1957 the use of guns in serious crime increased a hundredfold [and it has continued to increase ever since].¹⁵

In the 1990s England, Scotland, Australia, and Canada topped decades of increasingly stringent controls by outlawing many popular types of firearms and confiscating them from hundreds of thousands of owners law abiding enough to surrender them. Far from violence abating, it so intensified that by 2000 Australia, Canada, England, and Scotland ranked as four of the five industrialized nations highest in violence. Despite much lower gun ownership, their violence rates were 100 percent or more above those of the United States and two other high gun ownership nations, Belgium and Spain.¹⁶

Zimring and Hawkins still espouse the mantra stressing that English murder rates remain far below ours.¹⁷ More important, however, is that English murder rates started out far lower still—both absolutely and as compared to the United States—when England had no gun controls. The large increase of English murder over decades of ever more controls emphasizes the role of socioeconomic and cultural factors and the unimportance of the availability of any particular type of weaponry.

Australia is also experiencing severely increasing violence. Noting

that murder had declined, its prime minister attributed that to a vast reduction in gun ownership. But the murder decline began more than fifteen years before the gun bans and did not accelerate with the massive confiscations of guns. Indeed, 2002 saw a reversal: an unprecedented increase in murder, with other deadly weapons being used rather than guns.¹⁸

Guns or No Guns, Ordinary People Do Not Murder

The “more guns equal more death” mantra appears plausible if one thinks murders are mostly committed by ordinary people where a gun was available in a moment of rage. But that is untrue of most murders, or many murders, or virtually any murders.¹⁹ Homicide studies uniformly show that “virtually all individuals who become involved in life-threatening violent crime have prior involvement in many types of minor (and not so minor) offenses.”²⁰ Far from being ordinary, they are extreme social deviants with life histories of crime, violence, substance abuse, and/or psychopathology. So consistently do homicide studies find this to be the case that these things “have now become criminological axioms” of the “basic characteristics of homicide”—for the great majority of murderers and most victims too.²¹

While only 15 percent of Americans have criminal records, about 90 percent of adult murderers have adult criminal records, averaging four major felonies over a six-year adult period. That is also largely true of juvenile killers (and victims) insofar as juvenile criminal records are available. Studies of juvenile killers also find that 80–100 percent are psychotic or have psychotic symptoms.²²

Amazingly, the only fact ever cited to support the “ordinary people murder” mythology is that many murders occur in homes or involve acquaintances—as if violent deviants don’t have fights or acquaintances or homes. National data on gun murders occurring among acquaintances and in homes show that “the most common victim-offender relationship” is “where both parties knew one another because of prior illegal transactions.”²³ There are also many “family murders,” but these are not ordinary families, nor are the killers ordinary, decent people: “[t]he day-to-day reality is that most family murders are preceded by a long history of assaults” by the killer upon his mate and/or children.²⁴

For instance, of Massachusetts domestic murders in 1991–95, 75 percent of perpetrators had a prior criminal history and 23.6 percent were under an active restraining order at the time of the homicide. Forty percent of perpetrators had a history of having been under a restraining order at some time prior to the homicide, taken out either by the victim or some other person.²⁵

In short, if laws could disarm potential murderers, current federal and state laws—which generally ban guns to juveniles, drug addicts, mental incompetents, and persons convicted of a felony or of a domestic misdemeanor—should suffice.²⁶

Self-Defense with Guns

Not only is it pointless to disarm ordinary people (because they do not kill), it is counterproductive, both individually and socially, in minimizing the crime-reductive potential of self-defense. Contrast U.S. massacres in situations where only the killers were armed to Israel, where terrorists are often shot by intended victims because Israeli policy encourages civilians to carry guns so there will be armed defenders in all public places. Indeed, recent enactment of laws in some American states allowing qualified applicants to carry concealed handguns has resulted in U.S. incidents of massacres being ended by armed victims.²⁷

Opponents of gun ownership declare self-defense both immoral (“lethal violence in self-defense only engenders more lethal violence”)²⁸ and ineffective, asserting that guns can rarely be used in self-defense and that people who defend themselves *in any way* are much more likely to suffer severe injury; for victims of rape or robbery, “the best defense against injury is to put up no defense—*give them what they want* or run.”²⁹

However, all available data show that victims who defend with a gun are *less* likely to be injured than those who submit—and, of course, are far less likely to be robbed or raped.³⁰ In the great majority of gun defense cases, the victim’s gun is not even fired; 80 percent or more of attackers flee when a victim just displays a gun.

How often are guns used in self-defense? Based on nineteen different population surveys, the criminologist

Gary Kleck found that Americans defend themselves with guns 2.5 million times per year by warding off threats to their persons and property. Phil Cook and Jens Ludwig put the number of defensive gun uses at 1.3 million per year. Hemenway and Azrael's national survey, sponsored by the National Institute of Justice, found 1.5 million defensive gun uses per year. All these surveys reveal a great deal of self-defensive gun use of firearms; in fact, more defensive gun uses than crimes committed with firearms.³¹

Kleck's findings were ruefully but praisingly hailed by the dean of American criminologists, Marvin Wolfgang, despite his vehement personal feelings ("I hate guns").³² Concomitantly, Hemenway and Azrael and Cook and Ludwig deeply oppose defensive gun ownership and rejected Kleck's survey evidence as wrong—until their own survey results confirmed his. At that point they switched over to denying that surveys provide a reliable method for enumerating gun defense events.³³ They think survey respondents may be falsely claiming to have used guns for self-defense because that validates their decision to own a gun. Even as Hemenway and colleagues accept this *possibility*, they blithely reject the possibility that as many or more survey respondents falsely denied defensive gun use for fear of attracting police attention to an unreported gun incident. And even as Hemenway and colleagues reject the great majority of responses claiming gun self-defense, they accept as true the reports of respondents who say they were injured while resisting with a gun. Hemenway and colleagues hail this as proof of how foolish it is to resist rapists, robbers, and so forth, instead of "giv[ing them] what they want."³⁴

To justify rejecting their own survey results showing vast numbers of gun defense uses, Cook and Ludwig emphasize that, taken at face value, those results would imply that 322,000 armed women routed rapists that year. This Cook and Ludwig ridicule because a different survey suggests there were only 316,000 rapes that year. But that other survey has been shown to underestimate the incidence of rape by as much as thirty-three times because so many victims will not disclose they were raped.³⁵ Conservatively assuming the second survey is off by a factor of only twenty, the actual number of rapes that year was over 6 million. So it is not at all implausible that another 322,000 attempted rapes were repelled when victims pulled guns.

Critics of defensive gun use ignore a point of surpassing import. A gun is the only mechanism that gives a weaker victim parity with an attacker (even if the attacker also has a gun). The next best alternative, a chemical spray, is ineffective against precisely those who are most likely to engage in violent attacks: people who are under the influence of drugs or alcohol or who are extremely angry.³⁶

Widespread Legal Gun Carrying as a Deterrent to Violence

Carry concealed weapon (CCW) laws are based on the theory that violent crime is deterred if criminals fear that any given potential victim may be armed. The laws, which had been adopted in thirty-five states as of 2003, require that all law-abiding, responsible, trained adult applicants be issued a CCW license. National Institute of Justice surveys among prison inmates find that large percentages report that their fear that a victim might be armed deterred them from confrontation crimes. “[T]he felons most frightened ‘about confronting an armed victim’ were those from states with the greatest relative number of privately owned firearms.” Conversely, robbery is highest in states that most restrict gun ownership.³⁷

While it is clear that fear of armed victims does deter violence, the question remains of how important this deterrent is. Based on twenty-five years of data from all U.S. counties, the economist John Lott found that thousands of murders and other violent crimes did *not* occur in states that adopted such CCW laws. Anti-gun lobbying groups responded by falsely claiming that Lott’s work had been financed by the gun lobby.³⁸ An ad hoc group of academics opposed to Lott’s work took the unusual step of contradicting it in letters to the editor sent to every newspaper in America that had reported the finding.

One criticism was that the drops in violence were just too large to be attributed to the CCW laws, given that less than 5 percent of the populace actually obtained permits. This, however, is a non sequitur. The deterrent effect results not from victims actually shooting criminals but from criminals knowing that anyone they attack *may* be carrying a gun. The following are other criticisms of Lott’s results.³⁹

- The results are attributable to ordinary cyclical changes in the crime rate. To this Lott responds that his studies account for and exclude cyclical variation.

- As a technical matter, Lott has not accounted for variations between the time when certain CCW laws were enacted and when they were administratively implemented.
- While fear of armed victims caused violent crimes like robbery to drop, nonconfrontation crimes like burglary of unoccupied premises rose. Lott actually cites these facts as proving criminals are deterred from violent crime into nonviolent ones.
- Lott's focus on the entire twenty-five-year period rather than on the time periods in which various CCW laws went into effect magnifies the effect that only murder and robbery declined, but not aggravated assault and rape.
- Lott's findings cannot be trusted because the amount of crime decrease varied substantially between the different states that adopted the CCW laws.

Lott has replied to these and many other criticisms,⁴⁰ including a number of technical statistical objections raised by scholars not necessarily opposed to his findings on political grounds. Several such scholars have now replicated Lott's work using added or different data, additional control variables, or new or different statistical techniques they deem superior to those Lott used. Interestingly, the replications all confirm Lott's general conclusions; some even find that Lott *underestimated* the crime-reductive effects of allowing good citizens to carry concealed guns.⁴¹ For what it is worth, Lott's book *The Bias against Guns*, which reiterates, extends, and defends his findings, is endorsed by three Nobel laureates.⁴²

The Public Health Literature against Firearms

So far I have addressed criminological findings. Another entire literature on firearms emanates from the public health field. The following discussion derives from an extensive study of this literature I coauthored with a University of North Carolina biostatistician and three professors at Harvard and Columbia Medical Schools.⁴³ In 1979 the public health community adopted a goal to greatly reduce firearms ownership, a resolve it has formally and informally reiterated on many occasions.⁴⁴ This preexisting political goal closes medical and public health journals to ignore any other perspective. Public health journals and authors acknowledge—indeed proclaim!—that their purpose in discussing

firearms is to “speak out for gun control.” In the entire literature, consisting now of hundreds of public health publications, no more than five even question (much less reject) this perspective.⁴⁵

This dedication to a predetermined political goal has a predictably adverse effect on the reliability and scholarship of this literature. Thus, a 2003 public health monograph asks, “Does a gun in the home increase the likelihood of being shot and killed, or does it confer protection against violent criminals?” Its purported answer consists of reciting the number of gun deaths (more than half of them suicides, incidentally) to prove the danger, while dismissing the protective value of guns without noting even one statistic or study to the contrary.⁴⁶ The monograph also asserts “the consistency” of all research with the “more guns equal more death” mantra. This consistency it manufactures by just not mentioning all the contrary research.⁴⁷

Authors who are among the most prolific and influential in the public health literature assert that “limiting access to firearms could prevent many suicides.” As if it supported that assertion, they cite a diametrically contrary research finding that if guns are unavailable people just commit suicide in other ways. The same authors also claim that “restricting access to handguns could substantially reduce our annual rate of homicide”—citing as support a Department of Justice–sponsored evaluation of firearms regulation that actually concluded that “[t]here is no persuasive evidence that supports this view.”⁴⁸

One of these authors, Dr. Arthur Kellermann, has written highly publicized “studies” but refused to disclose his underlying data to scholars wanting to check it; nor do the public health journals publishing him require him to do so.⁴⁹

Probably the most widely referenced study in the public health literature compares Vancouver, Canada, to Seattle, claiming that (a) the latter had a distinctively higher rate of gun ownership, so (b) it had a distinctively higher murder rate. One problem is that (a) is false. The two cities’ gun ownership rates are almost identical according to a survey apparently unknown to the authors, who also published an article blaming Seattle’s supposedly higher gun ownership for its higher rate of suicide by young men. Far more important, however, is that comparison of two medium-sized cities is a wholly inadequate basis for concluding that higher gun ownership causes higher murder or suicide rates. It bears emphasis that the authors, and the *New England Journal of Medicine*,

which published their article, were aware of research reaching opposite conclusions from a broad comparison of American states to Canadian provinces. The journal declined either to publish this research or to require the authors to refer to it and explain how their own results were valid despite their contradiction by a far larger, more meaningful data set.⁵⁰

Indicative of the standards of the anti-gun public health literature is its repeated description of these Vancouver-Seattle comparison articles as “elegant.”⁵¹ In contrast, a Canadian social scientist cited them as exemplifying “studies [that] are an abuse of scholarship, inventing, selecting, or misinterpreting data in order to validate *a priori* conclusions.”⁵²

These faults characterize the entire public health literature. As a general rule it simply never mentions the vast corpus of criminological research that refutes or undercuts the “more guns equal more death” mantra.⁵³ Dubious or flatly false assertions made in editorials or by lobby groups are cited as if they were facts established by research.⁵⁴ (Failure to disclose when “facts” come from the anti-gun lobby is ironic since gun lobby criticism of inaccuracy in public health articles is shrugged off with “what do you expect from the gun lobby” responses.)⁵⁵

Concluding eighty-some pages of such examples, my coauthors and I dismissed the entire anti-gun public health literature as “so biased and contain[ing] so many errors of fact, logic and procedure that it has no claim to contributing to a scholarly or scientific literature.” We ended by quoting the sociologist James Wright’s remarks on the public health literature’s evocation of the simplistic “more guns equal more death” mantra in preference to addressing basic social, economic, and/or cultural factors that actually underlie murder and suicide. He begins by admitting that

there is a sense in which violence is a public health problem. So let me illustrate the limitations of this line of reasoning with a public health analogy. After research disclosed that mosquitoes were the vector for transmission of yellow fever, the disease was not controlled by sending men in white coats to the swamps to remove the mouth parts from all the insects they could find. The only sensible, efficient way to stop the biting was to attack the environment where the mosquitoes bred. Guns are the mouth parts of the violence epidemic. The contemporary urban environment breeds violence no less than swamps breed mosquitoes. Attempting to control

the problem of violence by trying to disarm the perpetrators is as hopeless as trying to contain yellow fever through mandible control.⁵⁶

Viability of Gun Laws

Disarming criminals, much less the general population, presents much more difficult problems than even enforcing narcotics laws. If narcotics are, as many think, harmful per se, reducing people's access to them even slightly is a benefit (though the costs to the criminal justice system may be inordinate). In contrast, since the great majority of gun owners never commit violence, disarming them would expend vast enforcement resources to no benefit. Laws designed to disarm criminals and the insane are obviously appropriate. But as will be seen, those whom it is most urgent to disarm are also the hardest to disarm.

The Futility of Supply-Side Measures

It is delusive, and a waste of resources, to hope that further regulation of the firearms industry can disarm violent felons. Probably less than 200,000 different guns are used in violent crimes annually, whereas just the number of guns stolen annually is upward of 750,000. Furthermore, federally sponsored prison surveys show most felons obtain guns not from theft or gun stores but from friends or on the black market (which doubtless recycles many stolen guns).⁵⁷

Thus, criminals can obtain all the guns they need without ever visiting a gun store. Moreover the most important difference between gun and narcotics bans is that guns are not consumed by use. With proper care the life expectancy of a gun is virtually infinite.⁵⁸ So, even if felons could be deprived of all ways to get new guns, they need only keep the guns they already have.

Assuming supply-side controls ever produced a gun shortage among criminals, the result would just be to produce a market for organized crime to fill by importing guns or covertly manufacturing them.⁵⁹ Pot metal copies of modern handguns would actually sell for less than guns do now because they are much cheaper to produce and the black market

is not burdened by taxes, record keeping, and safety standards.⁶⁰ Illustrative of the futility of supply-side control is the discovery by English police of a covert shipment of Croatian Mini-Uzi pistols *without serial numbers*. Some English drug gang or organized gun trafficker had the resources and connections in distant Croatia to either special-order thirty Mini-Uzis without serial numbers or have them stolen from the factory before serial numbers were stamped on them.⁶¹

In 1994 the head of Scotland Yard endorsed even more stringent gun laws lest England become like the United States, which foreign anti-gun advocates have long felt has such a gunstock as to make control efforts futile.⁶² England responded to such sentiments by banning handguns, confiscating over 166,000 from owners law abiding enough to surrender them. But by the period 2000–2003 England’s violence rate was among the highest in the developed world—twice the American rate⁶³—and police were lamenting that though “Britain has some of the strictest gun laws in the world [i]t appears that anyone who wishes to obtain a firearm [illegally] will have little difficulty in doing so.”⁶⁴

In sum, there is scant reason to invest hope or resources in trying to reduce the overall supply of guns, especially by controls over the firearms industry.

The Failure of Demand-Side Strategy

A better alternative, at least theoretically, is demand-side control, that is, stiff penalties to frighten criminals into eschewing gun possession or misuse. But such laws are effectively nullified by the lack of the resources needed to make the threat credible. Twenty-five years ago, the premier study of gun law enforcement concluded the following:

It is very possible that if gun laws do potentially reduce gun-related crime, the present laws are all that is needed if they are enforced. What good would stronger laws do when the courts have demonstrated that they will not enforce them?⁶⁵

The last sentence oversimplifies the issues, lending spurious credibility to the gun lobby’s “gun control” program (endorsed also by the other side) of laws supposedly mandating long prison terms for criminals misusing guns. Doubtless gun crime would be impacted if felons knew that

severe sentences would be imposed on anyone possessing or carrying guns (or on anyone committing a robbery or other violent crime with a gun). But mandatory imprisonment laws are shams enacted to make politicians look good without the funding needed to ever implement them.

Prisons are already overflowing with felons who are far more dangerous than run-of-the-mill gun robbers, for example, rapists or robbers who have maimed victims. So what mandatory imprisonment laws irresponsibly enacted without funding would mean (if the criminal justice system took them seriously) is early release or lesser sentences for the most dangerous criminals in order to give longer sentences to felons who, at most, just pointed a gun at someone and took his money. Faced with this reality, prosecutors and judges find ways around supposedly mandatory sentencing for gun felons. Gun felons quickly discover they will not be severely punished for mere possession; even for gun robbery the penalty is often little more than for nongun robbery.⁶⁶ Given resource limitations it is understandable that judges and prosecutors ignore mandatory gun penalty laws in order to give longer sentences to more dangerous felons. But doing so deprives gun possession (or misuse) bans of their point, which is to disarm felons *before* they misuse guns. That does not work when real punishment comes only if they are caught in the very crimes the gun law was supposed to be preventing.

Strategies for Gun Law Enforcement

Pro- and anti-gun advocates have suggested differing, but not incompatible, strategies to effectuate gun controls. The program Project Exile involves highly publicized, concentrated federal prosecution of felons found with guns. It is claimed to have dramatically reduced illegal gun carrying when tried experimentally in Richmond, Virginia.⁶⁷ Strongly endorsed by the NRA, it is the Bush administration's primary approach to gun issues in contradistinction to the Clinton approach, which was to enact drastic laws but virtually never prosecute violators.

Project Exile's value might be maximized by combining it with what is called the Kansas City Program (so-named for where it was first tried). This program involves the concentrated targeting of violations of public

disorder and other minor laws rather than the disregard of such violations. This should not be confused with the “Broken Windows” theory, which claims that enforcement of public disorder laws reverses visible deterioration of neighborhoods that causes criminals to view them as ripe for more serious crimes. The Kansas City Program uses the enforcement of laws against littering, loitering, jaywalking, and so forth, as an excuse for police to stop, arrest, and search violators.⁶⁸ Such a program of systematic searches may substantially deter criminals from routinely carrying guns.

Yet the limitations and costs of such still experimental programs must also be understood. The main limitation is that they deter only *habitual* gun carrying. This should reduce “crimes of opportunity” that were not preplanned but occurred because a felon had a gun available when a crime opportunity arose. But such programs will not affect gun carrying for preplanned violent felonies like robbery of a store or bank or contract killings. The chance of being caught with the gun is minimal when the perpetrator carries it only to and from such a preplanned crime rather than loitering on the streets waiting for an opportunity to misuse it.

Either program will also not work without (a) routinizing the creation of excuses to search *and* (b) imposing serious penalties upon illegal gun carriers and felons in possession. This means seriously increased costs for prosecution and imprisonment. If those costs are not fully funded, the result will be less capacity for long-term imprisonment of those guilty of much more serious crimes.

A second cost is in civil liberties. Using minor crime as an excuse for search is a strategy of pretextual evasion of the Fourth Amendment. Moreover, it raises much the same specter of discriminatory enforcement as does racial profiling. Police will not be cruising low-crime neighborhoods looking for excuses to stop, search, and arrest jaywalking white housewives. The burden of pretextual searches will fall only on the disadvantaged and minority populations in high crime areas.

The question perhaps is not so much whether some types of gun crime can be substantially reduced by such initiatives as whether the reduction is worth the costs. Many would find the civil liberties costs unacceptable. Others might deem the financial costs unacceptable. Among other things the inevitable effect will be reduced resource availability for other criminal justice priorities and for social programs that may offer a chance to

alleviate the root causes of crime. It cannot be predicted whether Project Exile or the Kansas City Program will spread widely or be just two more briefly ballyhooed programs that are eventually dropped.

In closing I want to suggest three policy changes that could help disarm gun criminals, though not without appropriation of additional enforcement resources. The first change would be to reverse the policy by which federal gun laws are virtually never enforced. For instance, the Clinton administration claimed that the Brady Act background check stopped hundreds of thousands of convicted felons from buying guns. Yet there were less than fifteen prosecutions of such felons. Over 99.99 percent were never charged with violating federal law by trying to buy guns—and thereby left free to go out and buy guns on the street. Is it any wonder “statistical analysis [has] provided ‘no evidence that implementation of the Brady Act was associated with a reduction in homicide rates’”?⁶⁹

Consider another question that is no less real for being rhetorical: Unless he spends his leisure hours reading the U.S. Code, how would the adult who sold a gun to the juveniles who used it in the Columbine school massacre know the sale violated federal law? Ordinary people learn the laws primarily from the publicity attendant to prosecutions under them. If, like many federal gun laws, violation is never prosecuted, how are people to know they are violating a law?

My second proposal would severely reduce the rights of violent felons against search and seizure. Under current state laws, crimes like robbery are theoretically subject to a prison term on the order of eight years; if a gun was used it might provide an “enhancement” of another two. Because a robber faced with such sentencing will demand a time-consuming trial by jury, there is likely to be a plea bargain by which the actual sentence is perhaps only four years for the robbery and another year for using a gun. With time off for good behavior, the robber is paroled in twenty-four months. A condition of parole is that he waive his rights against search for the duration of the parole, which will be only a few years. But parole boards could instead condition parole for those convicted of violent gun felonies on a *lifetime* waiver of their rights against search. Such felons would be deterred from having guns, knowing they are forever subject to police search at any time or place for any reason or none.

(A reviewer of this chapter doubts the constitutionality of this waiver

scheme. But I think courts would uphold it, reasoning that the felon is only being given a choice: if he does not want to waive his rights he can just do his full sentence without parole. Three and one-third years—his term less “good time”—is surely not cruel and unusual punishment for gun robbery.)⁷⁰

My last policy change would additionally incarcerate tens of thousands of violent gun criminals with only minor expenditure of scarce prosecutorial resources (though it would require extension of federal prison resources). Over the past twenty years many criminals have had state convictions for robbery, rape, or burglary with an enhancement for using a gun. Using these state convictions it is easily possible to add federal prison time to their state sentences by a systematic campaign to reconvict them under the federal law against felons having guns. Federal prosecutors in such a campaign will not need to plea-bargain with these felons. Of course, the felons will demand jury trials, but the issues to be tried will be extremely simple and straightforward, not requiring the calling of even one witness. All that the prosecutors need to present to prove their cases are two documents: (1) the defendant’s record of conviction of some kind of felony and (2) the defendant’s subsequent conviction of a felony involving the use of a gun. After being convicted on this simple evidence, tens of thousands of violent gun criminals will serve out their state sentences and then, instead of being released, go to federal prisons to serve out their additional federal sentences. By the time they finally emerge from prison, many or most will be in their mid-thirties or older. At that age most violent criminals realize crime is not a viable option.

Conclusion

A half-century of criminological research establishes that

- access to guns does not move ordinary people to commit violence;
- disarming them promotes violence by eliminating the most effective—for most people the only effective—means of self-defense;
- laws against gun possession by violent or mentally disturbed people are useful if for no other reason than that they allow incarceration of violators who are caught;

- such laws, rigorously enforced, might substantially reduce gun crime, but that requires financial investments the political system seems unwilling to make.

The premier authority in the field has emphasized the primacy of basic socioeconomic and cultural factors and the uselessness—indeed counterproductiveness—of focusing simplistically on the mere availability of some particular weaponry.

Fixating on guns seems to be, for many people, a fetish which allows them to ignore the more intransigent causes of American violence, including its dying cities, inequality, deteriorating family structure, and the all-pervasive economic and social consequences of a history of slavery and racism. And just as gun control serves this purpose for liberals, equally useless “get tough” proposals, like longer prison terms, mandatory sentencing, and more use of the death penalty serve the purpose for conservatives. All parties to the crime debate would do well to give more concentrated attention to more difficult, but far more relevant, issues like how to generate more good-paying jobs for the underclass which is at the heart of the violence problem.⁷¹

APPENDIX: TABLES

TABLE 1. Intentional Deaths: U.S. vs. Continental Europe Rates^a

	Suicide	Murder	Combined Rates
Russia	41.2*	30.6+	71.8
Estonia	40.1*	22.2+	62.3
Latvia	40.7*	18.2+	58.9
Lithuania	45.6*	11.7+	57.3
Belarus	27.9*	10.4+	38.3
Hungary	32.9*	3.5	36.4
Ukraine	22.5*	11.3+	33.8
Slovenia	28.4*	2.4	30.4
Finland	27.2*	2.9	30.1
Denmark	22.3*	4.9	27.2
Croatia	22.8*	3.3	26.1
Austria	22.2*	1.0	23.2
Bulgaria	17.3*	5.1	22.4
France	20.8*	1.1	21.9
Switzerland	21.4*	1.1 ^b	24.1
Belgium	18.7*	1.7	20.4
United States	11.6	7.8	19.4
Poland	14.2*	2.8	17.0
Germany	15.8*	1.1	16.9
Romania	12.3*	4.1	16.4
Sweden	15.3*	1.0	16.3
Norway	12.3*	0.8	13.1
Holland	9.8	1.2	11.0
Italy	8.2	1.7	9.9
Portugal	8.2	1.7	9.9
Spain	8.1	0.9	9.0
Greece	3.3	1.3	4.6

Note: In order of highest combined rate; nations having rates higher than the United States are indicated by asterisk (suicide rate) or + sign (murder rate). These data should be considered in light of tables 2 and 3 and the explanatory note that precedes table 3.

^aBased in general on *U.N. Demographic Yearbook* (1998) as reported in David C. Stolinsky, "America: The Most Violent Nation?" *Medical Sentinel* 5, no. 6 (2000): 199–201. It should be understood that, though the 1998 *Yearbook* gives figures for as late as 1996, the figures are not necessarily for that year. The *Yearbook* contains the latest figure each nation has provided the U.N., which may be from 1996, 1995, or 1994.

^bThe Swiss homicide figure Stolinsky reports is an error because it combines attempts with actual murders. I have computed the Swiss murder rate by averaging the 1994 and 1995 Swiss National Police figures for actual murders in those years. These are given in R. A. I. Munday and J. A. Stevenson, *Guns and Violence: The Debate before Lord Cullen* (Essex, England: Piedmont, 1996), 268.

TABLE 2. European Gun/Handgun Violent Deaths^a

	Suicide with Gun	Murder with Handgun	% Households with Guns	% Households with Handguns
Belgium	18.7	1.7	16.6	6.8
France	20.8	1.1	22.6	5.5
W. Germany	15.8	1.1	8.9	6.7 ^b
Holland	9.8	1.2	1.9	1.2
Italy	8.2	1.7	16.0	5.5
Norway	12.3	0.8	32	3.8
Sweden	15.3	1.3	15.1	1.5
Switzerland	20.8	1.1 ^c	27.2	12.2

Note: The data in table 2 should be considered in light of tables 1 and 3 and the explanatory note that precedes table 3.

^aAs set out in table 1, note a, these data are from the *U.N. Demographic Yearbook* reported by Stolinsky. The data on household gun ownership are from the British Home Office as printed in R. A. I. Munday and J. A. Stevenson, *Guns and Violence: The Debate before Lord Cullen* (Essex, England: Piedmont, 1996), 30, 275.

^bNote that the data here are for West Germany and were obtained when that nation still existed as an independent entity. See table 3 for later (but differently derived) data for the current nation of Germany.

^cAgain, the Swiss homicide figure Stolinsky reports is an error because it combines attempts with actual murders. See note b for table 1.

Explanatory Note to Table 3: It bears emphasis that the following data come from a special UN report whose data are not fully comparable to those in tables 1 and 2 because they cover different years and derive from substantially differing sources. This special report is based on data obtained from the governments of the nations set out in table 3, especially data on gun permits or other official indicia of gun ownership in those nations. The data on suicide and murder in those nations also come from their governments, as do the similar data in tables 1 and 2, but for later years, and also include data on the number of firearm homicides and firearm suicides, which are not available from the UN source used in tables 1 and 2.

TABLE 3. European Firearms: Violent Deaths^a

	Suicide	With Gun	Murder	With Gun	Number of Guns per 100,000 Population
Austria			2.14	0.53	41.02 ^b
Belarus	27.26		9.86		16.5
Czech Republic	9.88	1.01	2.80	0.92	27.58
Estonia	39.99	3.63	22.11	6.2	28.56
Finland	27.28	5.78	3.25	0.87	411.20
Germany	15.80	1.23	1.81	0.21	122.56
Greece	3.54	1.30	1.33	0.55	77.00
Hungary	33.34	0.88	4.07	0.47	15.54
Moldova			17.06	0.63	6.61
Poland	14.23	0.16	2.61	0.27	5.30
Romania			4.32	0.12	2.97
Slovakia	13.24	0.58	2.38	0.36	31.91
Spain	5.92		1.58	0.19	64.69
Sweden	15.65	1.95	1.35	0.31	246.65

^aThe data in this table derive from a survey (much more exhaustive than those referenced in tables 1 and 2) of legal firearms ownership in numerous nations that was carried out by researchers provided by the government of Canada under the auspices of the United Nations Economic and Social Council, Commission on Crime Prevention and Criminal Justice in 1997. The entire survey was published as a report to the secretary-general on April 25, 1997, as E/CN.15/1997/4. That report is analyzed in some detail in an unpublished paper ("A Cross Sectional Study of the Relationship between Levels of Gun Ownership and Violent Deaths") written by the leading English student of firearms regulation, retired chief superintendent of English police Colin Greenwood of the Firearms Research and Advisory Service. We are indebted to Chief Superintendent Greenwood for the opportunity to review his paper.

^bThe firearms ownership figure for Austria may be an undercount because an Austrian license is not limited to a single firearm but rather allows the licensee to possess multiple guns.