

GUN CONTROL ESSAYS

By

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A “BAN” IN NAME ONLY

Pretending to regulate only makes things worse

By Julius (Jay) Wachtel. It's as certain as taxes, and even less appetizing. We mean, of course, the incessant yammer by political candidates. One topic that inevitably worms into the discussion is guns. Here is [an extract from Hillary Clinton's CNN interview](#) on June 13, one day after Omar Mateen, 29, mowed down forty-nine persons at an Orlando nightclub using a SIG Sauer MCX .223 caliber semi-automatic rifle and a 9mm. pistol:

We know the gunman used a weapon of war to shoot down at least fifty innocent Americans, and we won't even be able to get the Congress to prevent terrorists or people on the no-fly list from buying guns. This is totally incomprehensible, and we've got to get back to into common-sense gun safety....We did have an assault weapons ban for ten years and I think it should be reinstated.

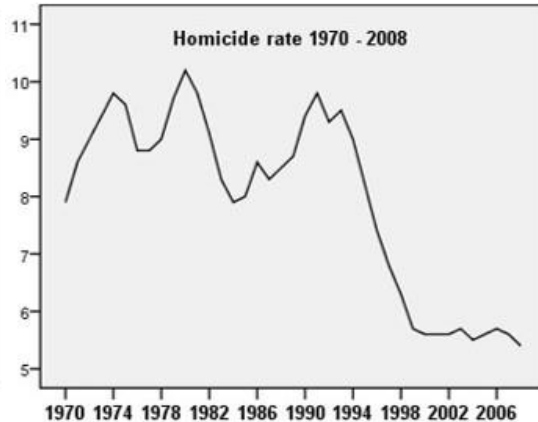
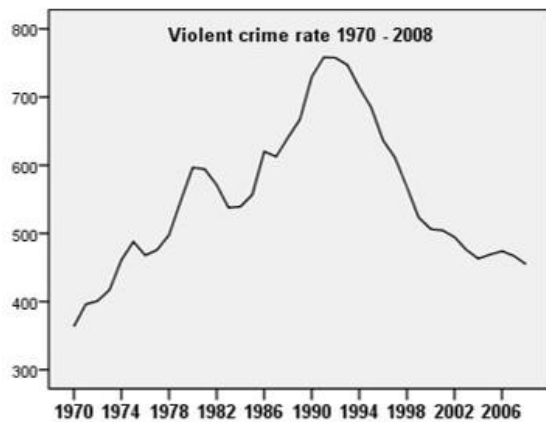
Here's [what her husband had to say](#) about this the next day:

All I know is this. We had a 10-year ban on assault weapons. And that was passed while I was President. I signed it and we pushed hard for it. And no small number of members of Congress lost their jobs because they voted for that and what was then a comprehensive background check law. We had a 33-year low in the gun death rate and a 46-year low in total illegal deaths by gun homicides. In other words, it worked pretty well.

If anything, our former President seemed even less concerned about the facts than his wife. As everyone who keeps tab on such things knows, the so-called “Great Crime Drop” was already well in progress in September 1994, when the assault weapons ban was enacted. Indeed, after peaking in 1991, national violence and homicide rates began a pronounced, multi-decade plunge. (Unfortunately, some cities got left out. See “[A Tale of Three Cities](#)” and “[Location, Location, Location.](#)”)

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	Violent crime rate	Homicide rate
1989	667	8.7
1990	730	9.4
1991	758	9.8
1992	758	9.3
1993	747	9.5
1994	714	9.0
1995	685	8.2
1996	637	7.4



Well, maybe the assault weapons ban didn't set off the drop. Couldn't it have sped things along? In a word, no. You see, there really was no "ban." Title XI of H.R.3355, the [Violent Crime Control and Law Enforcement Act of 1994](#) had three main provisions:

1. Nine specifically named weapons, or "copies or duplicates" thereof, could no longer be produced for sale to civilians. One was the Colt AR-15. And here it is:



2. All other semi-automatic firearms with detachable ammunition magazines could continue to be manufactured and sold to ordinary Joes and Janes as long as they didn't have *two or more* of certain external features such as a folding stock, bayonet lug, a pistol grip "that protrudes prominently," and a flash suppressor. In other words, a bayonet lug is OK, but that's it! Here's Colt's reworked rifle. Can you spot the changes?



3. Ammunition magazines that held more than ten rounds could no longer be manufactured for sale to civilians.

Gun makers and enthusiasts yawned. First, guns and magazines already in circulation could continue to be possessed and transferred, *ad infinitum*. Even better, manufacturers only had to make cosmetic changes (ditch that nasty, “prominent” handgrip) to keep making and selling guns that were functionally identical to those on the banned list. [So that’s what they did](#). Colt rebranded the AR-15, stripped it of a few external baubles such as the flash suppressor, and returned it to production. Thanks to the loopholes purposely built in to the law, things quickly went back to what passes for normal in gun-land.

Anti-gun groups who labored for the law’s passage tried to put the best face on it. On the day of the law’s enactment the executive director of the [Violence Policy Center](#) characterized the so-called ban as “[an island of regulation](#) in a vast sea of laissez-faire production. The question remains how effective it will be and how creative the industry will be in trying to work around the definitions.” A decade later, as the ban (it had a ten-year Sunset clause, and wasn’t renewed) mercifully came to an end here’s what the VPC had to say:

The 1994 law in theory banned AK-47s, MAC-10s, UZIs, AR-15s and other assault weapons. Yet the gun industry easily found ways around the law and most of these weapons are now sold in post-ban models virtually identical to the guns Congress sought to ban in 1994. At the same time, the gun industry has aggressively marketed new assault-weapon types such as the Hi-Point Carbine used in the 1999 Columbine massacre that are frequently used in crime. Reenacting this eviscerated ban without improving it will do little to protect the lives of law enforcement officers and other innocent Americans.

Gun enthusiasts still make fun of the ban. [Here are a couple recent posts](#) from an AR-15 forum:

“All the AWB did was ban ‘scary looking’ features.”

“I guess it also shows that whatever law they come up with short of banning all firearms, manufacturers can and do design their way around such laws.”

Exactly.

Could a weapons ban with real teeth be useful? Perhaps – but it would have to attend to two things: lethality and availability. As to the first, it may be possible to devise a scoring system that takes characteristics such as ballistics, rapid-fire capability, lack of recoil, accuracy and portability into account. For example, because of their extreme velocity, .223 caliber rounds commonly used in AR-15 style firearms causes especially devastating injuries. Not only are bullets far more likely likely to fragment inside the body, but on penetration they create temporary wound cavities as much as 12.5 times the diameter of the projectile (from Vincent Di Maio, *Gunshot Wounds*, extract [here](#).)

Say that we miraculously obtain agreement about lethality. What about availability? So many highly lethal firearms are in circulation that allowing them to remain in civilian hands would defeat a ban’s purpose. What have other democracies done? In the [Hungerford Massacre of 1987](#), a 27-year old British subject gunned down sixteen persons with a handgun and two rifles. Great Britain promptly responded with the “[Firearms \(Amendment\) Act 1988](#),” banning all semi-automatic rifles beyond .22 rimfire. After the [Dublane school massacre of 1996](#), in which a man armed with four handguns killed sixteen children and a teacher, Great Britain [essentially banned handguns](#). In both cases the restrictions weren’t simply “imposed” but enjoyed widespread public support.

Laws supposedly manifest a people’s sense of right and wrong. Alas, we’re not Britannia, where a sense of community still prevails. Instead of reflecting a considered moral position, the cynically-crafted assault weapons ban capitulated to commercial and enthusiast interests, leaving any notions of a social contract in the dust. In America’s polarized climate, where moral reasoning plays second fiddle to egoism and self-indulgence, any gun laws that might come out of the Orlando massacre would probably be watered down to meaninglessness.

Thanks to the proliferation of ever-more lethal hardware, our expectations about public life and public space have dramatically changed. Who would have thought that cops would need armored cars? What’s badly needed isn’t more lawmaking – it’s a national conversation about where we are as a people – and, just as importantly, where we’d like to be.

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A DISTINCTION WITHOUT A DIFFERENCE

***An epidemic of officer suicide raises the question:
do guns cause violence?***

For Police Issues by Julius (Jay) Wachtel. Friday, June 14 was a very bad day for cops in the Big Apple. That date marked [the third occasion this month](#) in which a member of the force – in this tragic case, a 29-year old officer with six years on the job – would commit suicide with a gun.

NYPD suffered four officer suicides in 2018, and four so far this year. Alarming, this month's three took place within a single ten-day period. Reacting to the crisis, NYPD Commissioner James P. O'Neill [called on his colleagues](#) to use and promote the use of mental health resources:

This is a mental-health crisis. And the NYPD & the law enforcement profession as a whole absolutely must take action. We must take care of each other; we must address this issue - now...There is no shame in seeking assistance from the many resources available, both inside and outside the department. Accepting help is never a sign of weakness - in fact, it's a sign of great strength. Please, connect yourself or your friends and colleagues to the assistance that is so close by.

Officer suicide is by no means a new phenomenon. Yet it's never been officially tracked. (The FBI's yearly [Law Enforcement Officers Killed and Assaulted](#) report only includes deaths due to criminal activity.) However, in 2016 the nonprofit "[Blue Help](#)" began systematically collecting information about episodes of police and correctional officer suicide. According to its website there were 142 officer suicides in 2016, 169 in 2017, 167 in 2018 and 92 so far this year. To compare, the FBI's most recent LEOKA report indicates that 46 law enforcement officers were feloniously killed in 2017, all but four by firearms. BlueHelp doesn't presently publish manner of death, but firearms are presumably the predominant instrument in suicides as well.

Why do cops and correctional officers kill themselves? [Suicide-prevention organizations](#) and the professional and academic communities tend to emphasize the unique stressors of the criminal justice workplace. Here, for example, is what the [NIJ Journal](#) has said:

Be it an officer patrolling a high-crime neighborhood in a big city, a small-town cop responding to a bar fight, or a homicide detective arriving at the scene of a

multiple murder, the common factor in their jobs is stress. They work in environments where bad things happen...The same is true of corrections officers [who] work in confined societies that are, by definition, dangerous. The stress levels are so high that, in one study, 27 percent of officers reported symptoms of post-traumatic stress disorder (PTSD).

Suicide isn't just a problem in law enforcement. According to the [Centers for Disease Control](#) it's the tenth leading cause of death in the U.S. What drives individuals to end their own lives? In a recent online article, "[Suicide Rising Across the U.S.](#)," the CDC cited seven reasons: relationship problems, substance use, personal crises, physical health problems, job/financial problems, criminal-legal problems and loss of housing. Guns got little play. While one table indicates that guns were used in 41 percent of suicides with mental health issues, and 55 percent where none were known to exist, they are explicitly mentioned only once, in a suggestion to safely store "medications and firearms to reduce access among people at risk."

It's not just the Feds who seem reluctant to put the onus on guns. "[Promising Strategies for Advancement in Knowledge of Suicide Risk Factors and Prevention](#)," a 2014 article in the American Journal of Preventive Medicine, identified seventeen factors, including gender, occupation, personality disorders, financial stress and maltreatment in childhood. Firearms didn't come up until the very last risk: "access to lethal means" (meaning, guns and pesticides.) The message that gun availability is but one of many hazards (and not necessarily the most pressing) seemed perfectly clear.

Yet as CDC data clearly indicates, firearms [are by far the most common means](#) of suicide. In 2017, guns were responsible for about fifty-one percent (23,854) of the 47,173 suicides recorded that year. Suffocation came in second at 13,075. Poisoning, at 6,554, was third. (For a table grouped by age click [here](#)).

Gun ownership and suicide rates are also closely linked. [A 2008 Harvard study](#) reported that the nine states lowest in gun ownership were also the nine lowest in suicide, and that the three with the most gun ownership were among the four [with the most suicides](#). A comprehensive study of [gun ownership and suicide between 1981-2013](#) found "a strong relationship between state-level firearm ownership and firearm suicide rates among both genders, and a relationship between firearm ownership and suicides by any means among male, but not female, individuals." And [a recent study of youth suicide](#) reported that for each ten-percent increase in households with guns, suicide among the young increased nearly 27 percent.

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Gun violence, of course, goes way beyond suicide. According to [the FBI](#), there were 16,617 murders and non-negligent manslaughters in 2017. [Guns were used](#) in 72.6 percent of these killings – about three in every four. [Firearms were also used](#) to commit 118,745 robberies (about 41 percent of the 319,356 reported that year) and 95,194 out of 741,756 aggravated assaults, or about one in every four.

Compared to other wealthy Western-style democracies, America seems a uniquely violent place. [A yearly global report](#), summarized by [NPR](#), revealed that in 2017 America's gun violence death rate of 4.43 per 100,000 pop. was fully nine times that of Canada and an astounding twenty-nine times higher than peaceable Denmark's.

Gun-control advocates argue that America's infatuation with firearms has created a toxic environment. Here, for example, is [Everytown for Gun Safety's](#) introduction to its sobering statistical compendium:

Every day, 100 Americans are killed with guns and hundreds more are shot and injured. The effects of gun violence extend far beyond these casualties—gun violence shapes the lives of millions of Americans who witness it, know someone who was shot, or live in fear of the next shooting.

But enough with numbers. Let's give the problem a bit of real life (and death). Below are four of the gun-violence related headlines that appeared on the main page of the *L.A. Times* website on June 20. (It's simply the day your blogger happened to look. Links were copied on the 21st., so wording may slightly differ):

- [“Sacramento police officer dies after shooting during domestic call”](#)
- [“Mass shooting leaves ten wounded outside Allentown, PA nightclub”](#)
- [“Two people killed in shootings near South L.A.”](#)
- [“Parents wounded by LAPD officer who killed their son still hospitalized”](#)

Here are two more found on June 26:

- [“San Jose man killed 4 in rage over visas before turning gun on himself, family member says”](#)
- [“2 workers, gunman dead at Bay Area car dealership”](#)

While some interventions seem to hold promise (see, for example, [“Red Flag at Half Mast, Part II”](#)) [“means restriction”](#) – that is, reducing access to potential instruments of violence like guns – is the international gold standard in suicide reduction. Given what's known, it's a relatively small leap to argue that limiting access to guns would sharply reduce violence of all sorts. That's what Great Britain did after the [Hungerford](#)

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[Massacre](#). And why Great Britain, Australia, Japan and Norway [enjoy freedom from the carnage](#) that Americans tolerate as the cost of, well, being American.

But we're not Great Britain. In the U.S., the proliferation of firearms, and the spectacular increase in their lethality, have dramatically affected the sociopolitical landscape. It's changed the rules and assumptions that shape social interaction and altered the very nature of our existence. When an off-duty LAPD police officer shopping with his family at a Costco [feels impelled to respond](#) to an assault with a barrage of gunfire (and in so doing, not only kills his unarmed, mentally disturbed assailant but critically wounds both of the man's parents, also unarmed) we know something really, really bad has happened.

A threshold has been crossed. Guns *cause* violence. They're not just "enablers" anymore.

Posted 6/24/17

A LOST CAUSE

Legislators are ambushed. And a gun-numbed land shrugs and moves on.

By Julius (Jay) Wachtel. “It’s going to be in my pocket from this day forward. It’s got all the punch you need.” House member Chris Collins (R-Ala.) was of course referring to a gun, specifically the 9mm. pistol [that he occasionally carries](#) in the glovebox. But the Congressman’s resolved to ramp up his game. His decision to “pack” 24-7 was prompted by [the June 14 shooting](#) at a Congressional baseball practice in Alexandria that wounded four, most seriously fellow Republican legislator Steve Scalise, the Majority Whip.

Congressman Collins isn’t the only one looking to guns as a solution for...well, guns. Reacting to the same tragedy, his Alabama GOP colleague, Rep. Mo Brooks [asked that D.C. exempt legislators](#) from laws restricting concealed carry (applicants are [presently required](#) to demonstrate a “good reason”):

Right now, when we’re in Washington, D.C., once we’re off the Capitol Hill Grounds complex, we’re still congressmen, senators — we’re still high-profile targets — but we have absolutely no way to defend ourselves because of Washington, D.C.’s rather restrictive gun laws.

Fellow GOP stalwart Rep. Chuck Fleischmann (R-Tenn.), who hit the ground to avoid the assailant’s fusillade, heartily agrees:

Put it this way: If we had had more weapons there, we’d be able to subdue the shooter more quickly. Thank God that the Capitol Police were there and were armed, because otherwise we’d have had a situation where there’d be a lot more damage.

Naturally, the Dem’s don’t see it that way. But let’s not get trapped into parsing ideological disputes. Considering what actually happened, it seems unlikely that a passel of armed citizens would have helped. [James T. Hodgkinson](#), the assailant, was in a more-or-less secluded position [about two to three house-lengths](#) away from his victims [when he began firing salvos from an SKS 7.62 cal. semi-automatic rifle](#). Consider whether a group of startled, frightened lawmakers could have even organized an effective response. Then imagine how many would have perished or accidentally plugged one another while trying.

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Six and one-half years earlier [Congresswoman Gabrielle Giffords \(D-Ariz.\) was fighting for her life](#) after being shot in the head during an Arizona political event. Her assailant, Jared Loughner, a 22-year old recluse was standing in a crowd when he suddenly pulled a Glock 9mm. pistol and opened fire, killing six and wounding thirteen. It could have been much worse had several citizens not tackled the gunman when he paused to reload. None of these heroes was armed. A Johnny-come-lately who *was* [described what nearly happened](#) when he stumbled on the scene:

As I approached the people wrestling with him [Loughner] one of the other gentlemen actually had gotten the gun away from him. And that's what I saw first was him holding the gun. And, you know, I had my hand on my pistol and I saw that the gun he was holding was locked back, and so it was empty. And I decided that instead of pulling my gun, I would try and get that gun from him. So, I ran up to him and grabbed his wrist and pushed him up against the wall. At that point, everybody around me says no, no, it's this guy, you got that wrong guy.

It's possible to conceive of circumstances that would benefit from the presence of armed citizens. Still, if everyone that wished to be armed *was*, what might the unintended consequences be? For a hint, read our [prior gun control posts](#). Here's an extract from "[Don't Blame the NRA](#)":

We've become so accustomed to gun violence that we seldom think about the gang members, "ordinary" criminals and otherwise law-abiding heads of household who commit countless mini-massacres year-in and year-out with weapons whose unthinkable lethality would have horrified the framers of the Second Amendment. That's what's really insane.

It's not simply a question of "who" carries. "What" they possess is equally crucial. Indeed, the lethality of guns commonly in use has reached levels that would have been unimaginable to the Founders. Once more, [let's self-plagiarize](#):

In December 1791, when the Second Amendment went into effect, a "handgun" wasn't a .40 caliber Glock with a fifteen-round magazine. It was a bulky, muzzle-loading single-shot flintlock that could take nearly a minute to prepare for a second round.

So what about Hodgkinson's SKS? Lacking a handgrip and other external baubles, the Eastern-block military surplus rifle [was never deemed an "assault weapon"](#) under (now-expired) Federal law. Imported in large quantities, it's widely available at moderate cost. (Four-hundred bucks can get you a nice one. We assume that's about what Hodgkinson paid when he legally bought his at a gun store.) "Assault weapon" or not, SKS rifles are

extremely effective killing machines, boasting projectiles that travel nearly twice as fast and carry more than three times the energy of the 9mm. pistol ammo that supposedly now lines Rep. Collins' pockets. (See Di Maio, "Gunshot Wounds," 2nd. ed., p. 168.) And even when its bullets don't kill [they inflict devastating wounds](#):

According to Di Maio...as these projectiles traverse tissue they create a temporary, undulating cavity that can be as much as 12.5 times the bullet diameter. "Organs struck by these bullets may undergo partial or complete disintegration. The pressures generated are sufficient to fracture bone and rupture vessels adjacent to the permanent wound track but not directly struck by the bullet." (p. 171)

This "cavitation" is exactly what happened to Rep. Scalise, [who nearly perished from an SKS-inflicted wound to the hip](#). (Click [here](#) for a recent *New York Times* op-ed on point.) Incidentally, this lethal threat [is a risk that cops face whenever they don the badge](#):

Nye County (Nev.) sheriff's deputies responded to a call about a domestic argument with shots fired. Diverting to a nearby casino where the woman supposedly went to take refuge, they encountered her male partner in the parking lot. Without warning the man retrieved an SKS semi-automatic rifle from his vehicle and opened fire. Deputy Ian Deutch, 27, was struck and killed by a round that penetrated his body armor. A member of the National Guard, the deputy had just returned from a tour in Afghanistan.

[Table 38](#) of the UCR's latest "Law Enforcement Officers Killed and Assaulted" report quantifies the threat in stark terms. Nineteen of the 454 officers gunned down during the decade ending in 2015 were slain by projectiles that penetrated their body armor. All but one of these deaths was caused by rifle rounds. Due no doubt to their lethality and ubiquity, 7.62 X 39 caliber bullets were the most frequently responsible. Of course, cops well know that the body armor they normally wear cannot protect them from high-powered rifle rounds (armor that can be far too heavy and clumsy for daily wear.) It makes perfect sense that police have increasingly turned to armored cars. They've "militarized" because so has everyone else. And now [there's a proposal to relax the ban on silencers](#). Meaning that shooters will be more comfortable, while cops will have even less cues about the location of a lethal threat.

What could be done? In "[A Ban in Name Only](#)" we discussed the 1987 massacre in Hungerford, England, where sixteen persons were gunned down by a man wielding a handgun and two rifles. In response, Great Britain promptly enacted laws banning all semi-automatic rifles beyond .22 rimfire. Nine years later, when a handgun-toting

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British subject murdered sixteen children and a teacher, our (for now, European) cousins virtually banned handguns. Not that we're suggesting cause-and-effect, but forgive us for pointing out that in 2015 murder in Great Britain [was less than one-quarter the U.S. rate](#). As for what their cops and ours face, consider that in 2015 the gunfire death rate for U.S. law enforcement officers was four per thousand, while the U.K. rate was their typical zero.

U.S.				Officers killed		U.K.			
	Guns	Other	Total	U.S. 5 X pop.			Guns	Other	Total
2000	47	4	51			2000	0	2	2
2001	61	9	70			2001	0	2	2
2002	51	5	56			2002	0	1	1
2003	45	7	52			2003	1	2	3
2004	54	3	57			2004	0	1	1
2005	50	5	55	U.S. 7 X # cops		2005	1	0	1
2006	46	2	48			2006	0	0	0
2007	55	2	57			2007	1	2	3
2008	35	6	41			2008	0	0	0
2009	45	3	48			2009	1	1	2
2010	55	1	56			2010	0	0	0
2011	63	9	72	U.S. cops v. U.K. cops		2011	0	0	0
2012	44	5	49	2000 - 2015		2012	3	0	3
2013	26	1	27			2013	0	2	2
2014	46	5	51			2014	0	0	0
2015	38	3	41			2015	0	1	1
Total	761	70	831			Total	7	14	21
				Gun deaths	All deaths				
				109 X	40 X				

Of course, in Great Britain firearms restrictions enjoy widespread public support. But as my dear father pointed out when our ferry docked in Miami, we're in America now! So forget "could." What *can* be done? Apparently, nothing. Our highly polarized political atmosphere has shelved all thoughts of tightening gun controls. Even Bloomberg news (you know, the outfit owned by that gun-phobic gazillionaire) [considers further restrictions a lost cause](#). Here's a snippet from their interview with Senator Chris Murphy (D-Conn.), the baseball catcher who represents the liberal side of the aisle:

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“I think we’re beyond the place in which Washington responds to mass shootings...After Orlando and Sandy Hook, that’s clearly not how people’s minds change here.”

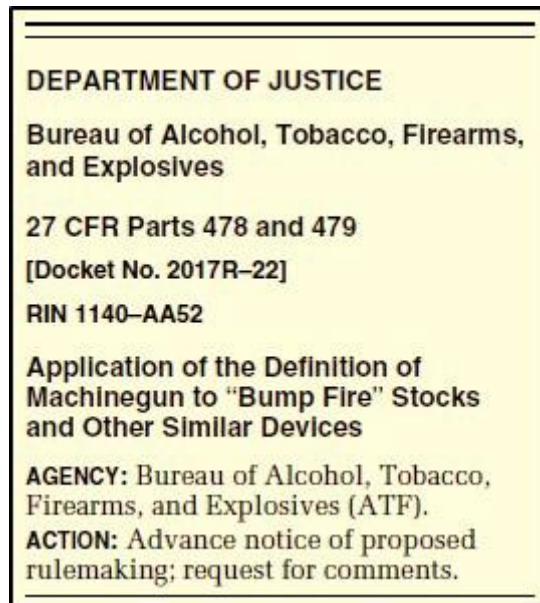
What might actually propel change seems too horrific to contemplate. In the meantime, life isn’t a baseball game, and it will most likely be ordinary citizens and street cops who’ll continue to bear the costs of doing nothing.

p.s. Hodgkinson reportedly purchased both guns legally. Still, he had several past gun-related run-ins with the law, including a 2016 arrest for striking a person with the butt of a shotgun and firing a round. But the victim didn’t show up in court so charges were dropped. Although Hodgkinson retained his gun rights he was certainly a dangerous man and ripe for an intervention (click [here](#).)

Posted 3/17/18, edited 3/18/18

AGAIN, KIDS DIE. AGAIN, OUR “LEADERS” PRETEND.

Like the Dem’s, the GOP addresses gun lethality with make-believe



By Julius (Jay) Wachtel. It was January 17, 1989. President Ronald Reagan and Vice-President George H.W. Bush had three days left in office when Patrick Purdy, a deeply disturbed ex-con, used a store-bought AK-47 type rifle to [kill five children and wound twenty-nine others and a teacher](#) at a Stockton (Calif.) elementary school.

Bush then took over (those old enough to appreciate such things might remember his eminently forgettable V.P., Dan Quayle) Five-plus years later, on September 13, 1994 Bill Clinton signed the law commonly referred to as the [Assault Weapons Act](#) into effect. As a Yale Law School grad, the prez must have known that the measure, which was prompted by a series of shootings including the Stockton massacre, [had been craftily worded](#) to create the least possible impediment to the firearms industry. Indeed, the so-called “ban” was so easy to circumvent that when it expired ten years later the rabidly anti-gun Violence Policy Center [shrugged](#):

...immediately after the 1994 law was enacted, the gun industry evaded it by making slight, cosmetic design changes to banned weapons—including those banned by name in the law – and continued to manufacture and sell these ‘post-ban’ or ‘copycat’ guns.

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How toothless *was* the Federal law? How weak were its suggested replacements? As we've discussed in prior posts (click [here](#) and [here](#)), the original "ban" and subsequent schemes tinkered with ammunition capacity and external baubles such as handgrips and flash suppressors. None dared address that one aspect that makes "assault weapons" so dangerous to citizens and cops: fearsome ballistics, which defeat police body armor, [pierce the front doors of homes](#) and kill cops, and force outgunned police to deploy armored cars.

On April 20, 1999, about half-way through the Federal ban's ten-year run, two teens [staged a massacre](#) at Columbine High School in Littleton, Colorado, killing twelve fellow students and a teacher and wounding twenty-one others. [One of their guns](#), a Hi-Point 9mm. semi-automatic carbine (it was reportedly used to discharge nearly 100 rounds) came from a friend who got it from an unlicensed seller [at a gun show](#). Hi-Point had [purposely designed](#) and manufactured this rifle to avoid the prohibitions in the Federal assault weapons law, and [it remains in production](#) in assorted calibers and configurations (including "California Compliant") through the present day.

Columbine was followed by the [April 2007 massacre at Virginia Tech](#), where a senior used two pistols to kill twenty-seven fellow students and five staff members and wound seventeen others. Although a judge had once declared the shooter mentally incompetent, his status was never relayed to the Federal background check system, so he was allowed to buy the guns used in the massacre. This gap in reporting was corrected in a bill signed by President George W. Bush in January 2008, one year before he left office. (Although Congress was under Democratic control, both firearms were handguns, so the incident wasn't useful in supporting occasional attempts to renew the assault weapons law.)

But [the Sandy Hook school massacre](#) was different. In December 2012 a mentally-troubled (but not adjudicated) youth used his mother's Bushmaster XM-15 rifle (an AR-15 variant) to murder twenty children and six employees. To date the deadliest school massacre in U.S. history, it took place as President Obama was finishing the third year of his first term. As one might expect, this tragic event invigorated the Democrats' push for [a renewed assault weapons ban](#). Of course, just like Bill Clinton, Mr. Obama, who once edited the prestigious *Harvard Law Review*, had to know that the purposely built-in limits of assault weapons laws make them virtually useless in the real world of gun massacres. But as a good Democrat, he pressed for the measure [and attacked its GOP opponents](#) with gusto. As one might expect, although the proposal was [only slightly more restrictive](#) than the expired law, with the GOP running the House it predictably went nowhere.

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Then came last month's massacre at [Marjory Stoneman Douglas High School](#). Now in control of both the presidency and Congress, the Grand Old Party faced a dilemma. Digging into its basket of excuses, it promptly redirected the conversation to the worst gun massacre in American history, last October's killing of fifty-eight persons and wounding of four-hundred eighty-nine on the Las Vegas strip. What enabled the carnage according to the GOP? Not the killer's arsenal of (legal) AK-47 variants but an unfortunate accessory: the "[bump stock](#)" that enabled him to mimic full-auto fire.

Wait a moment! There was no "bump stock" at Marjory Stoneman, only a legal AR-15 rifle. No matter. Whether to draw attention away from the real problem, or simply appease a bunch of high schoolers who ditched class for a day, President Trump finally suggested a ban. *On bump stocks*:

Just a few moments ago, I signed a memorandum directing the Attorney General to propose regulations to ban all devices that turn legal weapons into machine guns. I expect that these critical regulations will be finalized...very soon.

As luck would have it, the president's directive ran into a slight problem. Well aware of its shaky position regardless of who's at 1600 Pennsylvania Avenue, ATF, the agency charged with overseeing Federal gun control efforts (full disclosure: my one-time employer) has always been exceedingly careful to interpret firearms laws as narrowly as possible. Its desperation to "get along" was recently reflected in a [January 2017 "White Paper"](#) penned by the agency's associate deputy director, which (of all things) favored legalizing *firearms silencers* and loosening regulatory oversight. (For our post on point click on "Silence," below. For an in-depth news account click [here](#). Incidentally, some agency wags characterized the document as a job application for the Director's slot, which remains vacant.)

So what does ATF think about bump stocks? It [passed judgment on those](#) a decade ago. As far as the agency's concerned, they've always been legal:

"Bump fire" stocks (bump stocks) are devices used with a semiautomatic firearm to increase the firearm's cyclic firing rate to mimic nearly continuous automatic fire. Since 2008, ATF has issued a total of 10 private letters in which it classified various bump stock devices to be unregulated parts or accessories, and not machineguns or machinegun conversion devices....

These words came from ATF's December 2017 filing in the federal Register, which invited comments to a proposed regulation that would place bump stocks within the statutory definition of a "machinegun." Stung by the Las Vegas massacre, the NRA announced that it [favored studying the measure](#). At the same time, it also called for a

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Federal law to extend right-to-carry throughout the U.S. Meanwhile our Twitterer-in-Chief [came out in support](#) of arming America's teachers. Just imagine the commercial possibilities! New lines of guns and holsters specially designed so that instructors can place highly accurate, devastatingly lethal fire from the chalkboard!

Sadly, when it comes to America and guns, ideology and selfishness have always ruled. Even in the most gun-hostile states, assault rifle "bans" emphasize everything except what really counts: ballistics. For an example of these laws' ineffectiveness one need go back no further than December 2015, when a self-styled terrorist couple used state-legal AR-15 clones to murderous effect, [killing fourteen and wounding twenty-two](#) at a workplace party in San Bernardino, California.

We usually like to close with a catchy sentence or two, but here that doesn't seem quite as important. In any case, let's hope that whatever happens with "bump stocks" and pretend gun "bans", neither courageous high-schoolers nor their elders will be fooled. As long as exceedingly lethal firearms continue being manufactured and sold while our "leaders" wink and nod, kids, adults and cops will keep being slaughtered. You can count on it.

Posted 9/27/14

ALL IN THE FAMILY

***Men are gunning down their spouses and children.
Is anyone paying notice?***

By Julius (Jay) Wachtel. A recent FBI report analyzing assaults by “active shooters” between 2000 and 2013 identified 160 events in which 486 persons were killed and 557 were wounded. (These figures include nine law enforcement officers killed and 28 wounded.) Two of the most significant episodes occurred in 2012: the theater killings in Aurora, Colorado, with 12 dead and 58 wounded, and the Sandy Hook Elementary School massacre, with 27 dead and two wounded.

To be included incidents had to involve a “mass casualty,” meaning at least three deaths. In an effort to limit the study to “active shooter” incidents – an ill-defined category at best – the FBI excluded killings connected with gang or drug crime and those stemming from “contained” residential and domestic disputes. If nothing else, these measures greatly limited the sample size. In all, the report included only seven lethal, multi-victim shooting events that occurred solely within residences, an average of less than one a year.

As we know, episodes of lethal domestic violence, including those that meet the “three or more dead” threshold, are far more frequent. A quick-and-dirty Google search of family killings with at least three casualties revealed at least six such episodes in 2014 alone, resulting in a total of 32 deaths, 27 by gunfire (one incident did not involve firearms.) Twenty-two victims were children, ranging from infants and toddlers to youths in their teens. Unsurprisingly, each assailant was a male. Four were fathers, and one was a grandfather. Two shooters were arrested, three committed suicide, and one died of an apparent heart attack.

Here are the grim details:

- February 2, Chicago. An apparent dispute with his 17-year old son led Michael Worsham, 43, to gun down the young man. He then shot and killed his wife and their 15-year old daughter. A stepson, 14, and his five-year old nephew managed to get away. Worsham, a school security guard with a valid gun card, ultimately collapsed and died, possibly of a heart attack (he apparently had cardiac issues.) No motive is known.
- May 7, Florida. Darrin Campbell, 49, a respected media executive, shot and killed his wife and two children, ages 16 and 18, and set fire to their upscale rental home. He then killed himself. Campbell, who was apparently intoxicated when he

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died, had purchased the Glock .40 pistol used in the killings and, more recently, a large quantity of fireworks, in both instances legally. Campbell was reportedly arrears in property taxes and had recently requested leave from his employer, but so far neither friends, family nor police have offered a specific motive.

- July 9, Texas. Ronald Lee Haskell, 33, was gunning for his ex-wife when he burst into the home of her sister and tied up the only person present, a 15-year old girl. When the rest of the family arrived Haskell demanded to know the whereabouts of his former spouse, and when they wouldn't tell him he opened fire, killing a husband, his wife, and four children (the 15-year old survived.) Police chased down Haskell, who gave up without a struggle. Haskell had an extensive history of violence and domestic abuse. He was facing a restraining order recently filed by his mother, whom he tied up because she had contacted his ex-wife.
- July 26, Maine. Joel Smith, 33, used a shotgun to kill his wife and three children, ages four to twelve, in the modest apartment where they lived. He then committed suicide. Officers reported no prior contacts with the family but said that the Smiths were having "issues" about finances. These "issues" appear serious, as on the night of the murders Smith's wife told a friend that her husband had pointed a gun at his head and threatened to kill himself.
- September 3, South Carolina. In the only mass killing that didn't involve a gun, ex-con Timothy Ray Jones Jr., 32, strangled his five young children, ages one to eight, placed their bodies in garbage bags and dumped them by the side of a road. Nearly a week later Jones was pulled over by police for driving under the influence of synthetic marijuana. Officers found drugs, blood and bleach in the vehicle. Jones' children had been reported missing by his estranged wife, and Jones soon confessed that he killed them. Jones Had gained custody of the children after a "messy" separation, and retained custody despite concerns by social workers who visited his home. Weeks earlier, in an encounter with police, he told officers that his kids were planning to kill him.
- September 16, Florida. Don Charles Spirit, 51, telephoned police and said he intended to harm himself and his family. By the time that officers arrived at Spirit's rural home his 28-year old daughter and her six children, ages two months to 11 years, had been shot dead. Spirit then committed suicide. This wasn't his first lethal involvement with firearms. In 2001 he shot and killed his 8-year old grandson in what was billed as a hunting accident. Due to a prior felony marijuana conviction he was convicted of being a felon with a firearm and drew a three-year prison term.

- [Late addition] December 15, Pennsylvania. In a rampage that took him to three homes, Bradley W. Stone, 35, a former Marine who served in the Gulf War murdered his ex-wife and five of her relatives, including her mother, grandmother, sister, the sister's husband and their 14-year old daughter. Except for the girl, whom he stabbed to death, Stone, who suffered from PTSD, killed his victims with a .40 caliber pistol and possibly a 9mm. pistol (he owned both). Stone also severely stabbed the girl's brother. He then committed suicide. Stone and his ex-wife were in a bitter custody dispute over their two daughters, ages 5 and 8. They were unharmed.

Why do men slaughter their families? Firearms availability is presumably a factor. But it's not just the presence of guns. Violence may have genetic underpinnings, but there is no gene for being an "active shooter." Like other behaviors, gun-slinging and murder are learned, if by nothing else, then by example. And when it comes to such examples the U.S. is a uniquely fertile ground. Four years ago, in "Say Something," we bemoaned the epidemic of shootings by so-called "ordinary" people. Here's what we suggested:

Let's use the White House as a bully pulpit for a national campaign to remind everyone – gun owners, their friends, family members and co-workers – that guns and anger are a lethal combination. "Friends don't let [angry] friends pack guns." "If your [angry] friend has a gun, say something." Take out ads in print and on TV, put up billboards, place posters at gun stores and firing ranges. It's something worth considering.

It's *still* worth considering.

Posted 1/6/25

ALL IN THE FAMILY (PART II)

A decade after Part I, domestic killings remain commonplace



For *Police Issues* by Julius (Jay) Wachtel. West Valley City, Utah isn't crime-free. But with [134,470 residents](#) and [five murders](#) in 2023, the working-class suburb's 2023 homicide rate of 3.7 per 100,000 pop. was less than half [Salt Lake City's 7.6](#). West Valley's peaceful mien, though, took a heavy hit on December 17 when a critically wounded teen and five family members [were found shot dead in their home](#). Officers found a handgun under the father's body. It's believed that the 42-year old man used the weapon to massacre his family, then commit suicide.

Our source of information about domestic shootings, the [Gun Violence Archive](#), codes this episode a "family annihilation." Alas, such tragedies are by no means rare. Here's a few we recently came across while perusing news stories for our daily [Police Issues](#) updates:

- **[December 2024, Milpitas, Calif.](#)**: Prosperous places are hardly immune. In the tony Silicon Valley community of 80,000, a welfare check prompted by relatives led cops to discover the bodies of a middle-aged couple and their two children. As in West Valley, police found a gun – it was legally registered to the father – and concluded that he massacred his family, then committed suicide. Mom and Dad were going through a divorce. Dad, who reportedly had mental problems, had just bought the gun.
- **[October 2024, Tijeras, New Mexico](#)**: Family shooters aren't always dads. Rural New Mexico deputies were called to a home where neighbors had heard gunfire. Inside they found an armed twenty-four year old who was unhurt but "covered in blood." And in a nearby ravine they discovered the bodies of his

mom, dad and 17-year old sister, whom the young man had admittedly shot dead. He used his mother's legally-acquired gun. His motive was undisclosed, but he apparently had mental health issues.

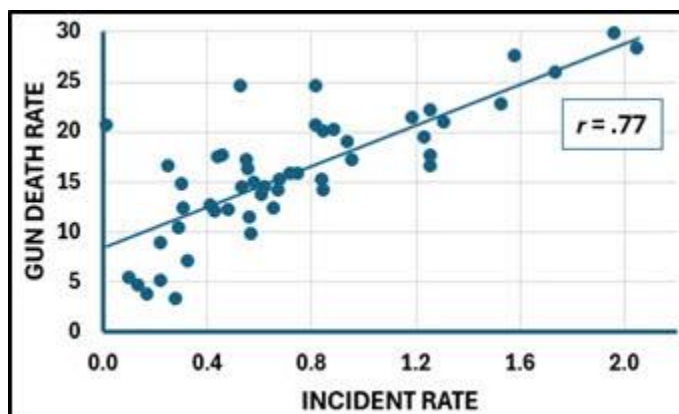
- **[December 2024, Belen, New Mexico](#)**: Some shooters are mere teens. In a working class suburb of Albuquerque an “extremely intoxicated” 17-year old informed 9-1-1 that he had just massacred his family. He surrendered to deputies without incident. Inside the home they found the bodies of his mom, dad and two brothers, ages 14 and 16. Each had been shot dead, apparently with the handgun that was on the kitchen table.
- **[October 2024, Fall City, Washington](#)**: Youngsters regularly figure in family massacres. Consider the 15-year old who told 9-1-1 that his brother “just shot my whole family and committed suicide too.” Only problem is, the caller was the killer. He used his father's pistol to murder both his parents and three siblings, ages 7, 9 and 13. Only his 11-year old sister survived, and that's because, although wounded, she had managed to flee through a window. [She told police](#) that her brother “had recently gotten into 'a lot of trouble' for failing some tests at school.”

“[Kids With Guns](#)” focused on school shootings. While plentiful, their numbers are no match for the appalling frequency of the gunplay that besets American homes. A decade ago, our prior foray into domestic violence, “[All in the Family](#)” (Part I), focused on episodes where fathers slaughtered their families. We now take a more inclusive approach. Using [Gun Violence Archive data](#), we selected all incidents of gun violence in 2023 across the 50 States (D.C. and territories excluded) that involved domestic violence, had a single assailant, and where one or more victims were wounded or killed. Here are the totals broken down by assailant age:

	2023 incidents	Victims shot	Victims wounded	Victims killed
18 and older	2123	2639	1711	928
17 and younger	65	74	49	25
	2188	2713	1760	953

Here are the incidents coded by the *Archive* as a “family annihilation”:

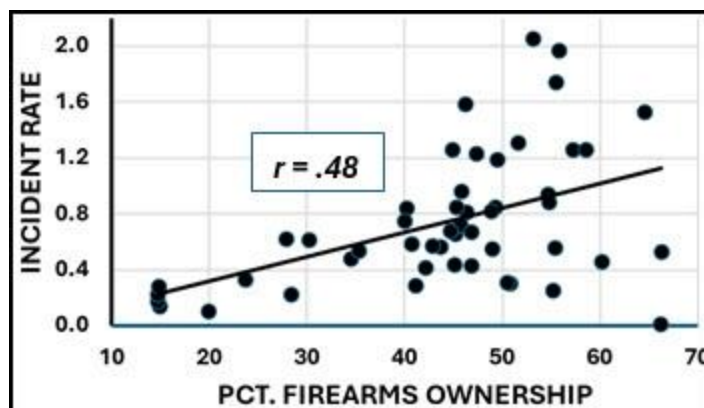
2023 incidents	Victims shot	Victims wounded	Victims killed
80	238	19	219



As this graph demonstrates, States (each is a “dot”) experienced markedly different outcomes. Still, their 2023 domestic violence incident rates tracked their [2023 gun death rates](#) quite closely. States with low incident rates generally had low gun death rates, and those with higher incident rates suffered from elevated gun death rates. That relationship is reflected in the “*r*” (correlation) statistic. It ranges from zero, meaning no relationship between variables, to 1, which designates a perfect, lock-step relationship. Of course, accurate data reporting is a must. Check out Wyoming (top left dot.) Although its gun death rate was a substantial 20.6, it reported only one incident of gun-involved domestic violence in 2023. Removing Wyoming from the picture increased the overall *r* between incident rate and gun death rate to a substantial .82.

What might lower the frequency of domestic violence incidents that involve gunplay? Fewer gun-owning households and stronger gun laws are two approaches.

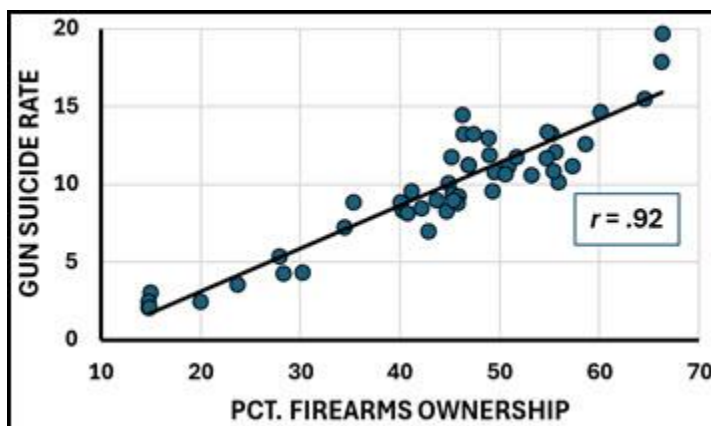
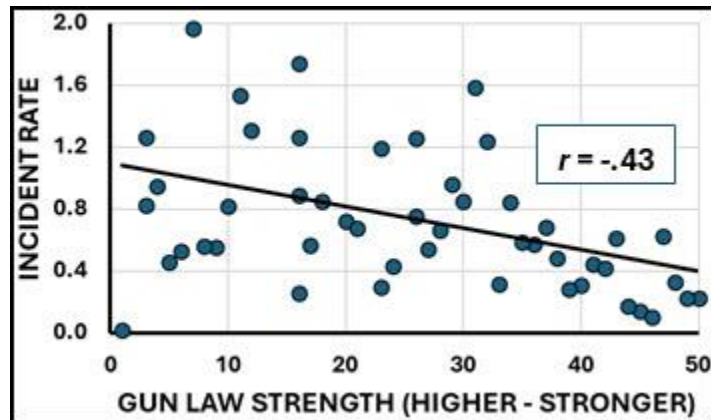
- **FAO - pct. household firearms ownership:** We computed the correlation between [2023 state firearms ownership data](#) from *Rand* and each State’s domestic violence incident rate. It produced a moderate $r = .48$. While they’re clearly not in lock-step, more guns are generally



associated with more incidents of domestic firearms violence. Of course, accurate reporting is a must. Once again, note incident-less Wyoming at the lower right. Removing it from the calculation increased the overall “*r*” between FAO and the

incident rate to a considerably heftier .56.

- GLS - State gun law strength:** *Giffords'* [State gun law strength scores](#) (but with the order reversed so that 1 represents the State with the weakest gun laws and 50 the strongest) were correlated with State domestic violent incident rates. At $r = -.43$ the relationship is also only moderate (the r is negative, meaning that the variables move in opposite directions). As law strength goes up, incidents decrease; again, not in lockstep. However, pulling out incident-less Wyoming (lower left) strengthened the correlation to a more respectable $r = -.51$.



Tinkering with gun ownership and gun laws might also be useful for other purposes. State gun death rates, which are available through [CDC Wonder](#), include suicides. In 2022, the most recent year for which data is available, over half of suicides – 54.6 percent – were committed with a gun. We computed the correlation between gun suicides and firearms

ownership (FAO). It came in at a startling, near-perfect $r = .92$. Gun suicide's association with gun law strength (GLS) was also quite strong, at $r = -.78$. Suicides, though, were only weakly related with our “usual suspect,” poverty. Their r was only .18.

Alas, in the land of “ r ” there’s always a catch. Household gun ownership and gun law strength are themselves strongly correlated. Their $r = -.81$ is negative: as one increases the other decreases, and very much in sync. Problem is, strong mutual ties between “causal” variables can distort the magnitude of their individual correlations with the “effect” variable of interest (i.e., gun suicide.) Check out this table:

GUN SUICIDES - CORRELATIONS				
ORIGINAL		CONTROL FOR:		
FAO	GLS	SUICIDE		
.92	-.78	GLS		
	-.81	FAO	.79	
-.81		GLS		-.15

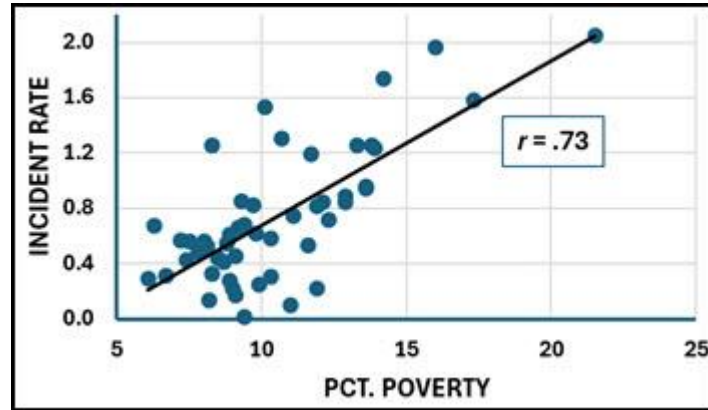
Applying the statistical technique of “[partial correlation](#)” reveals that when we “control” for gun law strength – that is, remove its influence – the correlation between firearms ownership and gun suicide recedes from $r = .92$ to $r = .79$. Still, it remains a hefty number. But when we take gun ownership out of the picture, the sizeable -0.78 r between gun law strength and suicide drops to a measly -0.15 . This suggests that gun law strength’s original relationship with gun suicides was mostly due to the influence of gun ownership.

[CDC Wonder](#) reports 48,204 gun deaths in 2022, the most recent year with full data. However, it considers rates for six States and D.C. unreliable, likely because their death counts may have been understated (i.e., Wyoming). For the 43 States with fully reliable stat’s, the CDC reported 47,279 gun deaths. About 56 percent were suicides (26,385) and 41 percent (19,397) were homicides. But only a small proportion involved incidents of domestic violence. According to the [Gun Violence Archive](#), 2,165 gun deaths in 2022 (1,657 victims, 508 suspects) stemmed from a domestic dispute. That’s about 4.6 percent of the CDC’s modified (43-State) gun death count and 11 percent of its modified gun homicide count.

Still, our graphs suggest that stiffening gun laws and reducing household firearms ownership can help. As for gun suicides, limiting household gun ownership seems to be the undisputed “champ.” It makes perfect sense that having fewer guns at home will lead to less lethal misuse by their inhabitants. Getting there, though, isn’t so simple. “Blue” California, which Giffords credits for having the strictest gun laws in the U.S., suffered 87 domestic violence incidents in 2023 that met our criteria (single assailant; one or more victims wounded or killed). While its incident rate of 0.2/100,000 pop. was one of the lowest, it was nonetheless matched by Massachusetts and New Jersey and bested by New York (it came in at 0.1).

What else could be done? That’s simple: eliminate poverty. We’ve often examined its role in crime. (Check out “[Policing Can’t Fix What Really Ails](#)” and “[See no Evil – Hear no Evil, Speak no Evil](#)”.) No, poor people aren’t criminals. But poverty acts as a robust container for a host of real-world factors – broken homes, lack of childhood supervision,

gang activity, lousy education, poor job skills, lack of health supports – whose collective influence may be the most proximate “cause” of criminal misbehavior. And perhaps, of domestic violence shootings. This graph examines the relationship between [2023 State pct. of households in poverty](#) from the Census and the *Gun Violence Archive's* 2023 State domestic violence incident rates:



Alas, if cops could only do something about poverty...

Posted 4/26/09

AMERICA, GUN PURVEYOR TO THE CARTELS

Enforcing the weak-kneed laws that exist is hardly a solution

By Julius (Jay) Wachtel. Concerns that Mexico is losing its war with the cartels have focused attention on the flow of guns south. In May 2008 [ATF agents](#) scored a significant victory when they dismantled a trafficking ring that supplied nearly seven hundred guns to Sinaloa gangsters. Among these were the AK-47 rifles used to murder eight Culiacan police officers and an engraved super .38 pistol that drug kingpin [Alfredo Leyva](#) was caught carrying in his waistband.

Investigation revealed that two smugglers, brothers Hugo and Cesar Gamez got seven local residents to buy the guns at X-Caliber, a Phoenix gun store. Its owner, George Iknadosian, 47, was supposedly in on the scheme. In an unusual move, ATF chose to proceed under State law because [Federal prosecutors](#) were reportedly “bogged down with immigration cases.” Everything seemed to be going well until March 18 when Maricopa County (Ariz.) Superior Court judge Robert Gottsfield ruled that Iknadosian, the only one of the bunch who hadn’t pled guilty, was in fact innocent.

What was the hang-up? [Charges](#) against the dealer were predicated on his alleged possession of a “[false instrument](#)”, meaning the Federal gun sales form, [ATF Form 4473](#). Question 11(a) on the form must be answered “yes” or “no”:

Are you the actual buyer/transferee of the firearm(s) listed on this form?

Warning: You are not the actual buyer if you are acquiring the firearms(s) on behalf of another person. If you are not the actual buyer the dealer cannot transfer the firearm(s) to you. [Emphasis present.]

Iknadosian supposedly counseled the purported buyers to check “yes,” a lie, as they were only acting as agents for the brothers. (An exception on the form allows buying guns as gifts. Go figure.) But Judge Gottsfield concluded that under the circumstances that falsehood didn’t amount to a crime. Here’s an extract from his [order](#) exonerating Iknadosian:

The state’s case is based upon testimony of individuals who falsified question 11a on ATF Form 4473, i.e. that they were the actual purchaser of the firearms when they were not. The court agrees with the defense that for such falsity to amount to a fraudulent scheme or artifice...the falsification has to be a material

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misrepresentation. In order to be material, the falsification has to have resulted in an unlawful or prohibited person obtaining the weapons.

ATF Form 4473 is a Federal form, so the judge turned to Federal law to find out what it takes to falsify it. [Title 18, United States Code](#), § 922 (a)(6) forbids gun buyers from making “any false or fictitious oral or written statement...likely to deceive [a dealer] with respect to any fact *material to the lawfulness of the sale* or other disposition of [a] firearm or ammunition under the provisions of this chapter [emphasis added] .” Among other things, dealers can’t deliver guns to felons, illegal aliens, juveniles, the adjudicated mentally ill and nonresidents (to keep local laws from being circumvented, persons are forbidden from buying guns outside their State of residence.) However, the law is silent about “straw purchase,” the practice of buying guns for others. There’s nothing in “the provisions of this Chapter” that forbids a dealer from selling guns to someone who intends to turn them over to a legally qualified possessor.

There’s no question but that straw purchases took place. But since the Gamez brothers and the pretend buyers were Arizona adults with clean records, and no evidence was introduced that a prohibited person wound up with a gun, the “yes” answers, while false, weren’t *materially* so. That view has been endorsed by appeals courts. In [U.S. v. Polk](#), the only known case directly on point [**that’s changed - see note below**], the Fifth Circuit held that “if the true purchaser can lawfully purchase a firearm directly, § 922(a)(6) liability under a ‘straw purchase’ theory does not attach.” More recently, in [U.S. v. Ortiz](#), the Eleventh Circuit ruled that “straw purchases of firearms occur when an *unlawful purchaser*...uses a lawful ‘straw man’ purchaser...to obtain a firearm [emphasis added].”

When the 1968 Gun Control Act was enacted Form 4473 didn’t ask buyers about their intentions. Lacking the political muscle to change the law, ATF got permission to insert what became Question 11(a) on the form (making clear that gift purchases were OK, of course.) This extralegal tinkering was mentioned in a footnote of the *Polk* decision, which pointed out that the 1991 and 1994 editions of the ATF Form 7 carried significantly different warnings. While the earlier form advised that a straw purchase was illegal **when the intended possessor is ineligible to buy a gun**, the more recent version made no such mention, thus leaving the impression that all straw purchases are no-no’s. But § 922(a)(6) hadn’t changed: just like [18 USC § 1001](#), the general false statements provision of Federal law, it’s always forbidden only *material* falsehoods. And that’s where things stand today [**that’s changed - see note below**].

It’s no surprise that the judge ruled as he did. What can be done to avoid such problems in the future?

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- Federal law could be amended to prohibit purchasing a firearm on behalf of someone else. Doing so would automatically make a lie to question 11(a) “material” to the lawfulness of a sale. (Those who wish to give a gun as a gift could buy a gift certificate.)
- Exporting undeclared firearms is illegal. Given proof of a dealer’s guilty knowledge, one could proceed with a case like Iknadosian’s as a conspiracy to violate export control laws.
- Limiting the number of guns that a buyer can acquire can make the use of straw buyers cumbersome. A few States (not including Arizona) restrict handgun purchases to one a month. That could be expanded nationally and broadened to include rifles.
- Innovation is key. During a Guns to Mexico campaign in the 1970’s an Arizona dealer was suspected of procuring straw buyers to cover up sales to gun smugglers. ATF brought in an undercover agent who lived in California so that selling him guns directly or through go-betweens would be unquestionably illegal. Convictions of the dealer and the straws [held up on appeal](#) and the Supreme Court denied certiorari.

President Obama and Secretary Clinton have emphasized “enforcing the laws that exist.” It’s a tired cliché that overlooks the fact that Federal firearms laws are so toothless that corrupt licensees and traffickers have little fear of discovery or meaningful punishment. As long as the Administration keeps shying away from confronting the pro-gun lobby, the prospects for improving oversight of the gun marketplace seem bleak indeed.

Note: [In U.S. v. Johnson](#) (no. 11-10290, 5/29/12) the Ninth Circuit ruled that when a straw purchaser falsely answers “no” to question 11(a) on an ATF Form 4473, it is prosecutable as a false statement even if the real, underlying buyer is eligible to buy guns. That conflict between Circuits was resolved by the Supreme Court on June 16, 2014. Ruling in [Abramski v. U.S.](#), the justices held (5-4) that falsely answering “no” constitutes a lie to a material fact, and is thus illegal, even if the intended possessor can legally buy guns.

Posted 5/16/22

ANOTHER DAY, ANOTHER MASSACRE

Pretending to regulate has consequences



For Police Issues by Julius (Jay) Wachtel. “He didn’t stand out — because if he did, I would’ve never sold him the gun.” [That’s what the Endicott, New York gun dealer said](#) about the youth who bought a rifle at his store in January.

It wasn’t an ordinary rifle. After passing the required background check, Payton Gendron, 18, walked out with a Bushmaster XM-15, an AR-15 style assault weapon that fires the .223 caliber cartridge. As we’ve often pointed out, these immensely powerful projectiles can inflict fatal wounds nearly anywhere they strike (“[Going Ballistic](#)”). Some States, including California and New York, have enacted so-called “assault weapons bans” that supposedly tone things down. These “solutions” are ridiculously half-hearted. For example, to limit ammunition capacity, [New York laws](#) restrict the XM-15 and its brethren to fixed, ten-round ammunition magazines. But as the dealer pointed out, “any gun can be easily modified if you really want to do it.” And that’s what Gendron reportedly did, obtaining a kit by mail-order that, after a bit of installation, allowed the weapon to accept removable, high-capacity magazines, thus turning it back into a true implement of war.

Gendron resided with his parents and siblings in [Conklin](#), a southern New York town of about 5,000 residents. On Friday, May 13 he got in his car and made the two-hundred-plus mile drive to Buffalo. Along with the XM-15, he brought along a Savage rifle, [which he got as a birthday gift](#) from his parents two years earlier, and a shotgun. (We saw a photo of the birthday celebration, including the gun box, online.)

On arrival Gendron promptly cased the store. He was back the next afternoon. Carrying the XM-15, Gendron exited his car and began firing. He shot four persons on



his way into Tops, killing three. On entering he encountered the security guard, Aaron Salter, Jr., a retired Buffalo cop. Mr. Salter fired his handgun, but the bullet bounced off his assailant's body armor. Gendron shot and killed Mr. Salter. He then went on to murder another six persons and wound two. When confronted by police Gendron put the gun to his head. But he ultimately surrendered.

Gendron was inarguably consumed by racial animus. His many media posts included [an online "manifesto"](#) that espouses white supremacy, touts racist "replacement theory" and praises prior massacres. Having apparently long prepared for what he considered to be an inevitable event, Gendron set out his murderous intentions in stunning detail, from shooting the security guard whom he expected to run across to murdering Black shoppers. And as it turned out, all but two of the persons he shot were indeed Black.

Gendron used a helmet-mounted camera [to stream the slaughter on Twitch](#). Although the video was quickly taken down, copies wound up on Twitter. We've viewed the two-minute-plus clip. Far too grisly to post, it graphically depicts several shootings. Authorities announced that "positive identification of many of the victims has been delayed by the severity of their wounds." And that the wounds *were* highly severe – that, after all, is what assault rifles are intended for – is clearly evident from the toll of ten dead and three wounded.

So what's the solution? As we mentioned in "[A Stitch in Time](#)," early intervention is obviously essential. Many jurisdictions allow police and family members to seek judicial orders that direct troubled persons to give up their guns ("Red Flag" [I](#) and [II](#)). When issued, these prohibitions can be entered in databases that gun dealers must check before transferring firearms. Still, a qualified someone must take the initiative and expend the necessary time and effort to seek an order. And agreeable judge must be present on the other end. It's an intensive process, and results aren't guaranteed.

It's been suggested that monitoring social media could identify likely killers in advance (see, for example, "[When a 'Dope' Can't be 'Roped'](#)"). Of course, time is of the essence. And the sheer volume of postings can make for an overwhelming task. Artificial intelligence measures can supposedly help cull the wheat from the chaff. But using A.I. in an unfocused fashion raises serious concerns about privacy.

Sometimes, though, we become aware of problematic individuals, such as the three characters profiled in “[Preventing Mass Murder](#)”, *before* they strike. While Gendron was much younger than Bowers, Sayoc or Beierle, like them he was not an ordinary sort. Described by a former classmate as “a little bit of an outcast,” Gendron turned up in “a full hazmat suit” when classes resumed post-pandemic. More significantly, as his high-school days came to an end, Gendron ran his mouth in a way that led teachers to call in the cops. On *him*.

How did *that* come about? Students had been asked to discuss their post-graduation plans. There are several versions of what Gendron said when his turn came up. [In one](#), he supposedly announced that he longed to commit a murder-suicide. [In another](#), that “he wanted to do a shooting, either at a graduation ceremony, or sometime after.” Whether it was his personality, or his delivery, or (most likely) a combination of the two, Gendron’s comments didn’t come across as the “joke” he would later insist was intended. State troopers responded and took him in for an involuntary mental health evaluation.

In your writer’s “career” as a student and, much later, as a college instructor, nothing like that ever happened. Not even close. But that assumedly rare event happened to Gendron. After spending a day and a half in the hospital, he was released. Best we can tell, nothing further was done, and he graduated on schedule. And about a year later he spent nearly a grand on his XM-15.

We made our attitude about assault weapons quite clear in “[Ban the Damned Things!](#)” But it’s also “quite clear” that not even California, whose gun laws are supposedly the strictest in the nation, is ready to take these unusually lethal weapons out of circulation. Apparently, neither are the Feds. In fact, a Ninth Circuit panel [recently ruled](#) that California’s prohibition on the sale of semi-automatic rifles to persons under 21 violates the Second Amendment. So we simply keep pretending. Instead of addressing the underlying problem – [the lethality of the projectiles fired by assault rifles](#) – we place half-hearted limits on magazine capacity and prohibit hand grips and such. And when young men such as Gendron, and [Nikolas Cruz](#) (he murdered seventeen with an AR-15 type gun), and [Adam Lanza](#) (he murdered twenty-six with an AR-15 type gun), and [Patrick Crusius](#) (he killed twenty-three and wounded an equal number with an AK-style rifle) laugh at these “restrictions” and commit their unspeakable deeds, we shrug our shoulders and comment about the, um, “rarity” of the events.

Neither Cruz nor Lanza were supposedly motivated by race. Crusius, though, had [posted extensive hateful racial comments online](#) (his scorn was directed at Mexican

immigrants.) All three clearly suffered from severe psychological problems. [According to his lawyers](#), Crusius, who still awaits trial, had been mentally disabled throughout high school. Still, none of these characters were ever involuntarily committed. Just like Gendron, each remained legally qualified to buy and possess guns. Crusius and Cruz reportedly bought theirs at retail (Lanza used his mother's rifle.)

We suspect that in the end, Gendron's obsession about race – and, likely, Crusius' – will be understood not necessarily as the *cause* of the massacres but as a reflection of the shooters' deep-seated mental problems. That's not to excuse their murderous acts but to highlight the immense difficulty of effectively regulating the acquisition and possession of firearms, let alone assault rifles. As long as we continue to allow these highly lethal weapons to be sold, ill-intentioned persons will continue to acquire and misuse them. It's *guaranteed*.

Posted 4/4/23

ARE WE HELPLESS TO PREVENT MASSACRES?

*A murderous rampage in Nashville suggests
that lawmaking is not a solution*



For Police Issues by Julius (Jay) Wachtel. When 28-year old Audrey Hale fired through a glass door and barged into Covenant Christian School on March 27, the Nashville resident [carried three weapons](#): a Lead Star Arms “Grunt” AR-15 .223 caliber rifle (left), a Kel-Tec SUB2000 9mm. carbine (right),



and a Smith & Wesson 9mm. pistol. Once inside, [Hale roamed the first and second floors of the school](#), killing three nine-year old students and three adults whom he came across in the hallways. Alerted by the gunfire, teachers promptly locked down their classrooms. Hale fired more rounds – some apparently pierced doors – but he didn’t crash into any rooms and no one else was hurt.

Officers soon arrived and shot Hale dead.

Was Hale legally entitled to have guns? [Tennessee does not require background checks](#) for gun purchases. [But Federal law prohibits](#) felons and persons who were ever adjudicated mentally defective or committed to a mental institution from acquiring guns. As best we know, none of these categories applied to Hale. So as an adult, Hale could legally purchase guns from Federally-licensed gun stores to their twisted heart’s

delight. And Hale did, buying seven guns, including the three used in the massacre, from local sources.

Could Hale's parents have done anything? It turns out that Hale was receiving medical care for an emotional condition. His need seems obvious. [According to a former classmate](#), Hale had shared “suicidal thoughts” with her and other acquaintances and “[was posting a lot about depression](#)” during the weeks preceding the massacre. Incredibly, [Hale messaged her on Instagram moments before it began](#). “I’m planning to die today...You’ll probably hear about me on the news.” She promptly called a suicide prevention number, then the Sheriff’s Dept. But by that time the slaughter was underway.

Hale’s parents clearly knew that something was seriously amiss. [They told police](#) that they did not want Hale to have guns and thought that their child had disposed of the one gun they knew of. In fact, [Hale had been training at local gun ranges](#) and kept his seven store-bought weapons, plus two shotguns (one was “sawed-off”), plus lots of ammunition, plus detailed plans for the massacre, [at the home](#). Everything was supposedly well hidden, so it’s possible that the parents were unaware that their adult “child” had an arsenal.

And even had they been inclined to act, there was another obstacle. Nineteen States plus the District of Columbia have so-called “[Red Flag](#)” laws that enable judges, based on affidavits from family members or police, to order that guns be seized from possibly dangerous persons. Tennessee does not. So taking Hale’s guns would have required a highly intrusive and time-consuming commitment process. Even in the supposedly “Bluest” of places, liberty interests and due process concerns make preventive gun seizures an intensive, resource-consuming process with an uncertain conclusion. Considering the parents’ apparent “see nothing, hear nothing, know nothing” attitude, that was clearly never in the cards.



Might society have pre-empted the massacre? Over the decades, America’s experimented with various approaches to deal with troubled citizens. California recently enacted the “[Community Assistance, Recovery, and Empowerment Court Program](#)”. Known as CARE, it allows family members, first responders and health

workers to seek the detention of troubled persons. If a judge finds cause, individuals can

be ordered to participate in a twelve-month plan, renewable once. To help implement the program, Governor Kevin Newsom [called for a bond measure](#) that would direct billions to create treatment facilities and long-term supportive housing for the mentally ill.

Many progressively-minded politicians are delighted. Among them is L.A. Mayor Karen Bass, who recently met with the dispirited residents of tent camps that occupy her city's central core. But not everyone is pleased. Civil liberties groups are concerned that CARE's coercive underpinnings – after all, we *are* talking judicial mandates – would reverse decades of reforms that led America to abandon its long-standing practice of institutionalizing the mentally ill. This overhaul began in 1963 with passage of [Public Law 88-164](#), which appropriated \$26 million to create facilities that would find the causes of mental disorders and devise practices to ameliorate their effects. [According to then-President Kennedy](#), “new medical, scientific and social tools and insights” would allow mental hospital populations to be slashed in half.

And so they were. Mental institutions across the U.S. emptied. But as rampant homelessness and poor behavior became the “new normal,” critics of deinstitutionalization called the purportedly benevolent approach an appealing fiction. Even reformists were forced to concede that the transition wasn't producing its intended effects. In their view, while the plan was eminently workable, [society had failed to allocate sufficient funds and human resources](#) to carry it through.

What about stricter gun laws? [Hale used an AR-15 style .223 caliber rifle and two weapons that fire the 9mm. projectile](#); one is an assault-style carbine, and the other's a 9 mm. pistol. Notably, although police responded promptly, all six victims died from their wounds. That's not surprising. Nine-millimeter rounds are standard police issue and can easily kill. And the .223 cartridge is notoriously lethal. As we pointed out in “[Ban the Damned Things](#)” and our [Washington Post op-ed](#), its extreme velocity creates “temporary wound cavities” more than a dozen times the bullet diameter, shattering nearby organs and causing devastating internal damage. (For a graphic depiction of “how bullets from an AR-15 blow the body apart”, click [here](#).)



Recognizing that there *is* a problem, some progressively-minded places turned to – what else? – lawmaking. [To date](#), nine States and the District of Columbia have enacted assault weapons “bans”, and nineteen States and D.C. have “Red Flag” laws that authorize police to seize guns from allegedly dangerous persons. Such measures have reportedly helped. [But loopholes are rampant](#), and guns that are shorn of

doo-dads but fire the same lethal cartridge as the AR-15 are available even in so-called “strong-law” States.

Audrey Hale is the most recent in a long line of deranged shooters whom even the most restrictive laws couldn’t touch. Some, like [Frank R. James](#), who opened fire in the New York City subways last year, had undergone mental treatment. What’s more, he also had a long criminal record. But James had never been “committed” to a mental institution, adjudged mentally defective, or convicted of a felony. As far as the law was concerned, he was free to acquire guns to his heart’s delight. And that’s in a State with gun laws that are supposedly far more restrictive than Tennessee’s. Meanwhile, Federal firearms laws are under severe threat. In its 2020 [Bruen](#) decision, the Supreme Court held that “to justify a firearm regulation the government must demonstrate that the regulation is consistent with the Nation’s historical tradition of firearm regulation.” Its ruling, which nullified a New York law requiring that persons who wished to carry a gun justify their reason, was later used by an Indiana-based Federal judge [to throw out the conviction](#) of a gun buyer who falsely asserted that he wasn’t facing felony charges. After all, ex-con with a gun laws aren’t “historical,” right?

But forget the Feds. Consider, say, what the highly-respected *Giffords* website [thinks about California’s gun laws](#):

Overall, California has the strongest gun safety laws in the nation and has been a trailblazer for gun safety reform for the past 30 years.

Impressed? California law bans “assault weapons.” Its definition, though, is quite complex. Here’s an [extract](#):

30515. (a) Notwithstanding Section 30510, “assault weapon” also means any of the following: (1) A semiautomatic, centerfire rifle that does not have a fixed magazine but has any one of the following: (A) A pistol grip that protrudes conspicuously beneath the action of the weapon. (B) A thumbhole stock. (C) A folding or telescoping stock. (D) A grenade launcher or flare launcher. (E) A flash suppressor. (F) A forward pistol grip. (2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds. (3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.

Nothing whatsoever is said about caliber (everything below .50 is OK). Now grab a look at [“Our Never-Ending American Tragedy.”](#) Here are the “California legal” versions of the rifles Syed Farook and Tashfeen Malik used to murder fifteen in the 2015 San Bernardino massacre (DPMS Panther Arms on the left, Smith & Wesson M&P15 on the right):



And yes, both chamber that insufferably lethal .223 caliber round. Ditto the “Grunt” assault rifle that Hale carried. Is it “California compliant?” Check out [Lead Star Arm’s “California Compliant”](#) page.

Our nation’s historically welcoming attitude towards firearms (we’re parodying the Supremes) has enfeebled even the most half-hearted attempts to constrain gun lethality. Guns that mimic Vietnam-era AR-15 assault rifles have long been a major source of profit for the gun industry. Natch, many wound up in the hands of troubled souls. “Gun massacre” became part of the everyday lexicon.

Preventives have proven an appealing fiction. So we must look elsewhere. Meaning, after the fact. And what else is there “after” but the cops? Nashville P.D.’s response [has been widely praised](#). Officers quickly entered the school and gunned down the attacker. Bodycam video indicates that three officers clad in tactical vests and armed with long guns – what appears to be a tactical team – spotted Hale on the second floor. Their quarry ran off, firing “wildly.” But Hale was soon cornered. That encounter, which only consumed a few minutes, has been called far superior to [what happened at Robb Elementary in Uvalde](#), where it took police and hour to confront the shooter.



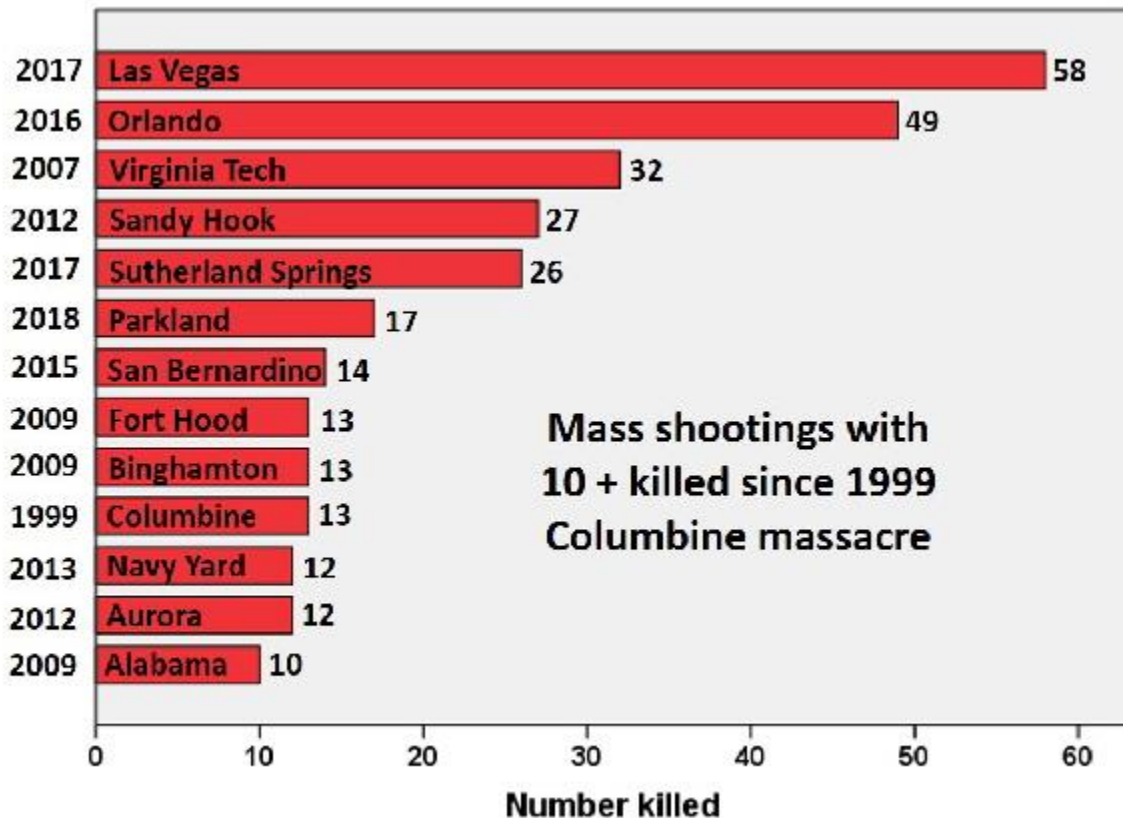
There’s no question but that Nashville cops did an outstanding job. But the comparison with Uvalde isn’t apt. Its cops didn’t have a tactical team on the ready. And the need was obvious, as two of Uvalde’s patrol officers who entered Robb Elementary were quickly wounded (fortunately, only slightly) by .223 caliber rounds that Salvador Ramos fired through a door. Ramos holed up in a room full of students, next to other rooms filled with students. So Uvalde’s cops had to be careful about rushing in with guns. Hale, though, didn’t barge into any occupied classrooms. Indeed, [Nashville officer bodycam video](#) depicts a chase through empty rooms and hallways.

Bottom line: in these days, when every evildoer has access to an assault weapon, all police departments, no matter how “small”, must have a trained, long-gun equipped tactical team on the ready, twenty-four seven. There really is no third choice.

Posted 2/20/18

BAN THE DAMNED THINGS!

There's no "regulating" the threat posed by highly lethal firearms



By Julius (Jay) Wachtel. "We could not have been more prepared for this situation, which is what makes it so frustrating." Broward County high school teacher Melissa Falkowski's [despairing words](#) aptly convey the consequences of allowing highly lethal firearms to proliferate in civilian hands. With seventeen presently confirmed dead, the toll of the [Valentine's Day massacre at Marjory Stoneman Douglas High School](#) in Parkland, Florida, [exceeds that](#) of the Columbine high school shooting, where twelve died, but is considerably fewer than the twenty-seven who fell at Sandy Hook Elementary. And if we include non-school shootings, far less than the fifty-eight recently murdered in Las Vegas.

Skim through the "Gun Control" section of this blog. Check out some of the posts linked below. It's not that America didn't anticipate what would most certainly happen again, nor, however futilely, try to get ready. [Falkowski said](#) that her school trained for

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such an event. “Broward County Schools has prepared us for this situation and still to have so many casualties, at least for me, it’s very emotional. Because I feel today like our government, our country has failed us and failed our kids and didn’t keep us safe.” When she and her students realized that this was no drill and that an “active shooter” was really about, simply following protocol (i.e., locking the classroom door and being quiet) clearly didn’t suffice. Improvising the best they could, the teacher and her nineteen frightened students huddled in a closet and nervously awaited SWAT.

Nikolas Cruz, the nineteen-year old shooter, [had been a troubled teen](#). His erratic behavior led to numerous run-ins with peers, teachers and neighbors and to home visits by police. In 2016 Cruz [posted online images of fresh, self-inflicted cuts](#) on his arms and indicated that he planned to buy a gun. That led to a peremptory investigation by a Florida state agency, which ultimately accepted a mental health counselor’s conclusion that Cruz “was not at risk to harm himself or others.” But Cruz’s behavior didn’t improve and he was expelled from Stoneman Douglas. It’s now evident that he was the “Nikolas Cruz” [who posted](#) “Im going to be a professional school shooter” on a YouTube channel last fall.

Still, Cruz’s life wasn’t completely disorganized. A family had taken him in, he was attending GED classes and worked at a dollar store. This job was the likely source of funds for the AR-15 rifle he used in the massacre, [which he legally purchased](#) in 2017 at “Sunrise Tactical Supply,” a Coral Springs gun store. (Yes, eighteen year-olds can buy rifles. But not a handgun!)

Federal law prohibits acquisition or possession of firearms by anyone “who has been adjudicated as a mental defective or who has been committed to a mental institution” ([18 USC 922\[g\]\[4\]](#)). Florida state law is roughly equivalent, but has elaborate safeguards apparently intended to assure its provisions are narrowly construed ([790.065\[2\]\[a\]\[4\] et seq.](#)) However, Cruz had never been formally adjudicated mentally ill, so the options for dealing with him were severely limited. His online activity, while in retrospect deeply disturbing, would have been insufficient to detain Cruz; had he consented to an evaluation, it’s doubtful that a physician would have found him incompetent.

In January the FBI [got a hotline tip](#) that Cruz had expressed a “desire to kill people” in social media posts. It was ignored. Given all the crazy, violent stuff that happens each day, being a jerk, talking about guns and posting crazy stuff online probably isn’t enough. Consider the case of another mass killer, [Adam Lanza](#). In 2012 the unemployed, reclusive anorexic shot and killed his mother, then used her AR-15 style rifle to murder twenty children and six adults at Sandy Hook Elementary School, which he had once attended. According to [a detailed official account](#), Lanza was diagnosed with serious

mental problems as a teen. Unfortunately, he went mostly untreated. After the shootings, a woman with whom he connected online [said that he was obsessed with mass murderers](#) and profoundly depressed.

Had Lanza been brought to police attention, what could have officers done? Without his cooperation, very little. [Connecticut law](#) prohibits those with voluntary (rather than only court-compelled) admissions for a “psychiatric disability” from purchasing firearms. However, Lanza had never been hospitalized for mental treatment and there was little to suggest that he posed an imminent threat. Anyway, he didn’t need to buy guns: he used his mother’s.

Other mass shooters were even less likely to gain official attention. Consider Stephen Paddock, the high-stakes Las Vegas gambler who committed [the worst gun massacre in American history](#). What seems most unusual about the tragedy is Paddock’s apparent normalcy and lack of motive. Some clues about his behavior have come to light. Paddock, who reportedly wagered [as much as one million dollars a night](#), was supposedly suffering from [“bouts of depression”](#) caused by heavy losses. An autopsy revealed the presence of [components of Valium](#), a potentially aggression-inducing drug that Paddock had been using to fight anxiety. Voluntarily taking Valium [would not have restricted his firearms rights](#) under either Federal or Nevada state law. So buy guns he did.

To drive the dilemma home scan the Wikipedia entries for other mass killers, say, [Omar Mateen](#), who gunned down forty-nine persons and wounded fifty-eight at an Orlando nightclub, and [Syed Farook and Tashfeen Malik](#), the married couple who murdered fourteen at an employee get-together in San Bernardino, Calif. Based on what was then known, none seemed sufficiently “crazy” to gain attention, let alone involuntarily commit. It’s only when we peer through the retrospective lens that the warts come out. Bottom line: mass killers can easily blend into the background and slip through whatever filters society puts up.

What can be done? Eight years ago, in [“Say Something,”](#) we suggested that speaking out can help prevent the slaughter of family members and co-workers by angry men:

With more people having and carrying more guns you and I and our families are at increasing risk of being shot by someone who may suddenly go berserk. Counting on armed citizens to come to the rescue is delusional – in fact, they’re part of the problem. So here’s an idea. Let’s use the White House as a bully pulpit for a national campaign to remind everyone – gun owners, their friends, family members and co-workers – that guns and anger are a lethal combination. “Friends don’t let [angry] friends pack guns.” “If your [angry] friend has a gun,

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say something.” Take out ads in print and on TV, put up billboards, place posters at gun stores and firing ranges. It’s something worth considering.

More recently, “[A Stitch in Time](#)” suggested that police officers are ideally placed to identify mentally ill persons who may turn violent and refer them for help, voluntary or not, before the next crisis costs someone’s life:

First, there must be a process for filtering out persons who most need special attention....This would at a minimum include a substantial history of contacts and...input from field officers, who are in the best position to decide whether...the admittedly subjective threshold of dangerousness has been breached.

By all means encourage citizens to “say something.” Had officers contacted and admonished Lanza, it’s possible that he would not have carried through with his plot, at least not then. Police, though, are usually busy on other things. They may also be reluctant to stir things up, particularly when their authority is limited. And as we suggested above, many mass killers seem less likely than deranged, impulsively violent persons to act in ways that draw attention.

Moving away from the *whom*, let’s concentrate on the *what*. Each of the above-mentioned massacres was perpetrated with variants of the Colt AR-15 rifle: a Smith & Wesson M&P15 .223 caliber for Cruz; a Bushmaster XM-15 .223 caliber for Lanza; an arsenal of AR-types in .223 caliber and .308 caliber for Stephen Paddock; a SIG Sauer .223 caliber for Omar Mateen; and for Syed Farook and Tashfeen Malik, two .223 caliber AR-15 variants: a DPMS Panther Arms A15 .and a Smith & Wesson M&P15.

But wait: didn’t the Federal Assault Weapons ban supposedly put highly lethal weapons out of circulation? What if it was renewed? In “[A Ban in Name Only](#)” we pointed out that the law, which limited magazine capacity to ten rounds and prohibited external baubles such as flash suppressors, ignored what *really* matters. What makes “assault weapons” lethal is portability, lack of recoil, accuracy at range, rapid-fire capability, and, most importantly, their fearsome ballistics. Projectiles fired by such weapons penetrate body armor and create “temporary wound cavities” more than a dozen times the bullet diameter (from Vincent Di Maio, *Gunshot Wounds*, click [here](#) and [here](#)).

America’s cops [face that threat](#) each day. Ballistic vests normally worn on patrol are no match for powerful projectiles such as the .223, .308 and 7.62 (the caliber of the AK-47 variant that [James T. Hodgkinson](#) used to shoot up a Congressional baseball practice last June.) Just how deadly are these rounds? According to the FBI, 88 officers [were feloniously killed with rifles](#) between 2006-2015. The top three calibers responsible

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were 7.62 (27 deaths), .223 (25 deaths), and 30-06 (6 deaths.) Nineteen of these deaths were caused by [rounds that penetrated body armor](#): three officers fell to the .223 caliber, three to .308, and six to the 7.62. It's no surprise that American police have taken to using armored cars.

England also has a strong gun and hunting culture. But that's where the resemblance ends. After the [1987 Hungerford massacre](#), where a 27-year old man gunned down sixteen persons with a handgun and two rifles, Britain banned all semi-automatic rifles beyond .22 rimfire. A subsequent mass shooting led to a virtual handgun ban. Now mostly limited to bolt-action hunting rifles, ordinary Britons have carried on chins-up, that is to say, superbly.

In contrast, when America felt pressed by a series of massacres, it passed a make-believe ban (enacted in 1994, it expired in 2004, and hardly anyone noticed.) [Seven States and D.C.](#) have come forward with supposedly more stringent laws. They mostly follow the [California model](#), which prohibits specifically named semi-automatic rifles, including the original Colt AR-15 and its replacement, the "Sporter", and requires that those with [certain external features](#) such as a handgrip have fixed magazines that can accept no more than ten rounds.

At the risk of redundancy, we'll point out that as far as lethality goes, these additional "restrictions" are meaningless. Farook and Malik, for example, perpetrated the San Bernardino, Calif. massacre with a pair of California-legal AR-15 clones. (News accounts, summarized in a [Wikipedia entry](#), detail how the couple easily modified the weapons to increase their ammunition capacity and facilitate reloading.)

In "[Massacre Control](#)" and earlier posts we suggested that a point system could be used to score lethality-related characteristics such as ammunition capacity, cyclic rate, accuracy at range, and, most importantly, ballistics. Guns whose total exceeds a certain threshold would be banned. Unfortunately, as California's breast-thumping "tightening" of gun laws demonstrates, there is simply no appetite for seriously addressing lethality, nor its most crucial element: ballistics.

O.K., we can't make guns significantly less lethal. What about restricting their acquisition? On first glance, purchase laws seem like a great idea. But Sutherland Springs, Texas shooter [Devin Kelley](#), who had a [disqualifying military court-martial conviction](#) for spousal abuse, bought the .223 rifle he would use to murder twenty-six parishioners in a store. How could that happen? Well, because of an oversight, military authorities never passed on the fact of his conviction to the FBI. In any event, most mass killers aren't felons. Or adjudicated mental defectives. Or subject to a [gun-violence](#)

[restraining order](#), an approach that some States have adopted. Many, including Cruz, Paddock and Mateen, [bought their firearms at gun stores](#).

Then again, it's hardly necessary to belly up to a counter. Farook and Malik got their .223's from a friend who bought them at a store. Lanza used his mother's guns. As discussed in past posts (see, for example, "[Where Do They Come From?](#)") there are so many avenues to gun acquisition – family and friends, illegal “street” dealers, gun shows, the Internet – that getting a gun requires hardly any effort. Had the gun dealer turned Kelley away he could have easily gone to a gun show – Texas has them regularly – and picked up several rifles from a private party without as much as showing I.D.

Bottom line: as long as lethal semi-automatic rifles continue to be produced, sold and traded, half-hearted “bans” won't work. That's why England took its big step, banning all beyond .22 rimfire. And why we must follow.

Must? Did you say, *must*? Shouldn't we first consider things in an objective forum? For sure. After cranking out “[Massacre Control](#)” (incidentally, his 300th. post) your blogger contacted the heads of university criminal justice programs around the country, urging them to stage a symposium that would examine the issue objectively. So far, all have passed.

Really, in this gun-besotted land, where the forces of selfishness and “me-ism” prevail, only one thing seems likely. Another massacre. And another. And another. And another. And another. And another. And another....

Posted 5/30/10

BIGGER GUNS AREN'T ENOUGH

Cops need protection from rifle rounds, not just the ability to shoot back

By Julius Wachtel, (c) 2010

“Brandon and Bill had no chance against an AK-47. They were completely outgunned. We are dealing with people who rant and rave about killing. They want government officials dead. We had a 16-year-old better armed than the police.”

Five days after a father-and-son duo of right-wing extremists [opened fire during a traffic stop](#), killing West Memphis police sergeant Brandon Paudert and officer Bill Evans, chief Bob Paudert, the late sergeant's grieving father, came to roll call to help his officers deal with the deeply traumatic experience of losing two beloved colleagues.

On May 13 sergeant Paudert (left) and officer Evans were on patrol when a white minivan with Ohio plates caught their attention. They pulled the vehicle over and approached its driver, Jerry Kane, 45. What they didn't notice, at least not in time, was that Kane's son Joe, 16, had grabbed an AK-47 rifle that his father always carried in the vehicle. Within moments both officers lay dead.

The van sped away. It was later spotted in a Wal-Mart parking lot. As sheriff Dick Busby and his top deputy, W. A. Wren approached the vehicle shots rang out, wounding both. Other officers then rushed in and enveloped the van in a hail of gunfire, killing both occupants.

A self-styled [sovereign citizen](#), Kane traveled around the midwest [coaching homeowners fighting foreclosure](#). Kane's services were [advertised on an extremist website](#). Visitors were encouraged to print out letters advising creditors that they were due nothing because the entire mortgage process is a fraud. (There's even a sample complaint letter to send to the FBI.)

Kane also posted debt nullification and patriot videos on YouTube. One, featuring Kane and his son chuckling about “taking a bat” to an IRS agent, carries the father's prophetic threat: “I don't want to have to kill anybody, but if they keep messing with me, that's what it's going to have to come out...And if I have to kill one, then I'm not going to be able to stop, I just know it.”

Kane wasn't just talking. Recently while driving through New Mexico he encountered a police ("Nazi") checkpoint. Unable to produce a driver license or identification – as a "sovereign citizen" he didn't feel that he needed either – he turned a simple ticket into an arrest and jailing. Indeed, as far back as 2004 his antagonistic attitude towards police had so [worried an Ohio sheriff](#) that he warned deputies to be wary should they run into him.

Kane's legacy is defended by a number of supporters. With his passing they've [posted a memorial](#) that praises Kane's patriotism and questions the official account of his and his son's demise.

On April 26 Nye County (Nev.) sheriff's deputies [responded to a call](#) about a domestic argument with shots fired. Diverting to a nearby casino where the woman supposedly went to take refuge, they encountered her male partner in the parking lot. Without warning the man retrieved an SKS semi-automatic rifle from his vehicle and opened fire. Deputy Ian Deutch, 27, was struck and killed by a round that penetrated his body armor. A member of the National Guard, the deputy had just returned from a tour in Afghanistan.

Both the AK-47, its commonplace MAK-90 variant (depicted) and the SKS use the 7.62 x 39 rifle cartridge, often called the Russian cartridge because of its adoption by that country's armed forces. Federal Cartridge Company's fully jacketed, [124 grain version](#) has a muzzle velocity of 2350 fps and a muzzle energy of 1520 ft/lbs. To compare against typical handgun ammunition, a fully jacketed Federal [9mm. Luger bullet](#) of the same weight has, at 1150 fps., only half the muzzle velocity, and at 364 ft/lbs. only one-quarter the muzzle energy.

It's the velocity, hence the energy of centerfire rifle ammunition that explains why an ordinary [.30 caliber carbine bullet](#) (1990 fps, 967 ft/lbs.) can penetrate all soft body armor commonly worn by police. Resisting penetration from centerfire rifle bullets requires hard panel inserts. [NIJ](#) tests these using conventional and armor-piercing 7.62 mm ammunition. As one might expect, the resulting garments, known as Type III and IV, are far too heavy, hot and clumsy for use on patrol. (Left: [Rank Enterprises](#) type III, non-armor piercing vest with alumina panels.)

Centerfire rifle bullets cause devastating wounds. According to Di Maio (“Gunshot Wounds,” 2nd. Ed.) as these projectiles traverse tissue they create a temporary, undulating cavity that can be as much as 12.5 times the bullet diameter. “Organs struck by these bullets may undergo partial or complete disintegration. The pressures generated are sufficient to fracture bone and rupture vessels adjacent to the permanent wound track but not directly struck by the bullet.” (p. 171)

FBI’s most recent [Law Enforcement Officers Killed and Assaulted](#) report indicates that 486 law enforcement officers were feloniously killed with firearms between 1997-2008. Ninety (18.5 percent) [were shot with rifles](#). Forty of these fatalities were caused by [7.62 x 39 ammunition](#), used in the AK-47, its MAK-90 variant and the SKS. In second place, responsible for twelve deaths, was the .223 caliber, used in the Colt AR-15, Colt Sporter, Ruger Mini-14 and assorted variants. (It’s likely that 7.62 x 39 ammunition figures so prominently because American importers brought in huge numbers of MAK-90’s from China, where they were manufactured for the U.S. market.)

Sixty-four percent (309) of the slain officers were [killed while wearing body armor](#). Two-hundred ninety-one died from strikes in unprotected areas, with head shots (115) predominating. One-hundred officers succumbed to [wounds in the torso](#). Of these, 82 were struck in unprotected areas, including armholes and shoulder (38), below the vest (15), above the vest (13) and between side panels (11).

[Rounds penetrating the vest](#) caused eighteen fatalities. All but one involved rifle ammunition (the sole exception, a death caused by a 9mm. pistol, was attributed to a failure of vest material.) Six were caused by 7.62 x 39 ammo, four by .223/5.56, two each by .30-06 and .30-30, and one each by .300, .308 and 7mm.

In 2009 things took a turn for the worse. According to [preliminary FBI data](#) 48 officers were feloniously killed, an increase of seven from 2008. All but three fell to gunfire, and a full third (15) to rifles. The latter group includes two incidents with three or more fatalities, the shooting deaths of [three Pittsburgh officers](#) and the wounding of two by a deranged youth armed with an “assault rifle” and a pistol, and the gunning down of [four Oakland officers](#) (right) by a wanted parolee, two with a handgun and two with an “assault rifle” that he fired through a closet door as SWAT stormed in.

Officers continue to be imperiled by rifles. [In an example](#) earlier this year a 44-year old Pennsylvania man killed his wife, then fashioned a “perch” from which he shot and

killed a trooper responding to what he thought was an ordinary domestic quarrel. The weapon used? An equally “ordinary” .30-30.

Realizing the threat that they and law-abiding citizens face, police rightfully clamor to carry rifles. [Three weeks ago](#) a Los Angeles County sheriff's deputy on patrol heard rapid gunfire. Fetching his department-issue AR-15, he arrived at a residence just in time to wound and disable a man who had just shot up a home with an AK-47, killing three and wounding two, and was apparently on his way to shoot others. That, too, was a domestic quarrel.

Of course, better arming the police isn't a complete solution. Cops can't brandish rifles or handle every call like a tactical assault, and should someone be unexpectedly lying in wait, as happened in Pittsburgh and rural Pennsylvania, there may be no opportunity for self-defense. (The West Memphis chief [reportedly instructed his officers](#) to henceforth handle traffic stops in pairs, with one carrying a shotgun, but the long-term viability of that approach seems questionable.)

What about reinstating the 1994 Federal assault weapons ban? In [Reviving an Illusion](#) we pointed out that the “ban” was crafted to pose the least possible impediment to the gun industry, focusing on meaningless external characteristics such as flash suppressors and pistol grips while avoiding the key issue of ballistics altogether. Colt, for one, quickly circumvented the law by renaming the AR-15 the “Sporter,” removing the flash suppressor and limiting magazine capacity to ten rounds. Naturally, Sporters continued to chamber the same ammunition – the [super-lethal .223 cartridge](#) (muzzle velocity 3240 fps, muzzle energy 1282 ft/lbs.) Here's some of what the [Violence Policy Center](#) had to say when the “ban” came up for renewal ten years later:

The 1994 law in theory banned AK-47s, MAC-10s, UZIs, AR-15s and other assault weapons. Yet the gun industry easily found ways around the law and most of these weapons are now sold in post-ban models virtually identical to the guns Congress sought to ban....”

It's clear that the firearms industry intends to keep marketing ever more lethal semi-automatic rifles and that nothing to change that is on the horizon. So one would think that the government would be pulling out all the stops to give cops more physical protection. Sadly, one would be wrong. As we pointed out in [DNA's Dandy, But What About Body Armor?](#) practical improvements have been glacial, with soft body armor

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that's suitable for patrol now somewhat more comfortable but no more resistant to bullet penetration than twenty years ago.

Really, considering what street cops face there ought to be a body armor Manhattan Project, but Federal funding has been stingy and leadership scant. What's to be done? Well, if you've read this far, stop what you're doing, get on the horn (or keyboard) and press the IACP, PERF, Major Chiefs and DOJ to establish a vigorous, coordinated, well-funded program to improve police body armor, not in another two decades, but tomorrow.

With ballistic threats reaching ever-higher levels, we need to give our cops a fighting chance. It's the least we can do, for them and ourselves.

Posted 10/8/17

“BUMP STOCKS” AREN’T THE (REAL) PROBLEM

Outlawing them is a good idea. But it’s hardly the solution.

By Julius (Jay) Wachtel. On October 1 a middle-aged man with no criminal record became the most prolific mass killer in American history, [slaughtering 58 persons and wounding 489](#) as they enjoyed an outdoor concert on the Las Vegas strip. As a stunned land reels from the carnage, one thing seems certain: the willingness of “ordinary” citizens to put guns to unimaginably evil use has made a mockery of the meager legal constraints that America has imposed on the right to bear arms.

To be sure, minors, convicted felons and adjudicated mental defectives – the “who” – are prohibited from acquiring guns. But Stephen Paddock didn’t fit into any of these categories. He and his evil counterpart [James T. Hodgkinson](#), who wounded four members of Congress in June, were by all appearances law-abiding citizens who acquired their guns legally, in Paddock’s case through repeat purchases at local gun stores.

And “what” they legally got is appalling. Lying in ambush at a Virginia baseball field, Hodgkinson unleashed repeated salvos from a 7.62 mm semi-automatic rifle, a derivative of the lethally efficient AK-47. Paddock stocked his 32nd. floor Las Vegas hotel room with nearly two dozen assault-style rifles, apparently all in the 5.56 mm caliber made wildly popular by the Colt AR-15.

Why did their guns prove so lethal? [It’s largely a matter of ballistics](#). Projectiles fired by civilian versions of the AK-47 and AR-15 travel twice as fast and carry three times the energy of even the more powerful pistol cartridges. When these bullets pierce flesh they create large, undulating cavities many times their diameter, pulverizing organs, shattering nearby bones and rupturing nearby blood vessels. According to the FBI, [454 law enforcement officers were feloniously shot and killed](#) during 2006-2015. [Of the nineteen killed by rounds that penetrated their ballistic vests](#), eighteen fell to rifle fire, with the 7.62 and 5.56 mm. calibers figuring prominently.

Of course, it’s precisely that killing power that America sought when it commissioned the AR-15 and deployed it in Vietnam, and what its North Vietnamese and Viet Cong opponents sought when they armed their troops with the AK-47. What Uncle Sam may not have expected was that Colt would capitalize on the military AR-15’s devastating reputation by cranking out a civilian version. Differing only in being semi-automatic,

meaning that the trigger must be squeezed for each shot, the near-identical twin proved an instant hit.

Concerns about the increasingly destructive quality of firearms in civilian hands led to the enactment of [the 1994 Assault Weapons Act](#), which banned the wildly popular AR-15 by name. Ignoring the Act's avowed social purpose, Colt quickly rebranded their highly profitable prodigy the "Sporter," and as the law required stripped it of external baubles such as a flash suppressor and limited its magazine capacity to ten rounds. [With the law \(cynically?\) silent about ballistics](#), the gun industry quickly went back to making the powerful and highly profitable weapons that enthusiasts like best. And when the clearly toothless statute ultimately lapsed into the Sunset, hardly anyone noticed.

"Bump" stocks use recoil to bounce weapons against the user's trigger finger. This increases the rate of fire to levels approaching that of machineguns, which can fire fully automatically, discharging a barrage with a single pull of the trigger. When the objective is to kill as many persons as possible and pinpoint accuracy is not required, a densely-packed venue such as an outdoor concert offers the ideal setting for their use. Mechanical issues and ammunition capacity preclude prolonged "fully automatic" fire, so Paddock's decision to deploy multiple bump-stock equipped rifles made (twisted) sense.

Still, as prior mass shootings demonstrate, semi-automatic assault-type rifles can easily produce deplorable body counts. (Ordinary combat troops generally leave their rifles on semi-automatic mode, whose cyclic rate usually suffices to get the job done.) Bottom line: neither a real machinegun nor a "bump stock" are required to generate a bloodbath. On December 2, 2015 a self-styled terrorist couple used two semi-automatic AR-15 type rifles [to kill fourteen and wound twenty-two at a workplace party in San Bernardino, California](#). Both died in a vicious shootout with local police, who were forced to deploy an armored car.

Military-style weapons place cops at grave risk every day. On July 7, 2016 a deeply troubled 25-year old reservist [opened fire on officers monitoring a protest march](#). His imported semi-automatic variant of the AK-47 proved highly lethal, and soon five Dallas officers lay dead (seven others were wounded.) Police eventually killed the assailant with an improvised bomb delivered by a robot.

Three months later two police officers stood outside a residence in easy-going Palm Springs, California. Gunfire from inside the home suddenly pierced the front door, [fatally wounding officers Lesley Zerebny and Jose "Gil" Vega](#), who had arrived in response to a "simple family disturbance." (Another officer was wounded but recovered). Their assailant, a deeply troubled twenty-six year old ex-con, used a semi-

automatic AR-15 type rifle and readily available “armor piercing ammunition,” which can supposedly defeat the armor plate in ballistic vests.

Decades ago, before citizens were armed with what amounts to weapons of war, few incidents called for anything more than a patrol car or two. But the proliferation of lethal firearms [has forced the police to militarize](#) with SWAT teams, armored vehicles and robots that can deliver as well as retrieve bombs. And now we have to worry about “bump” stocks as well.

What’s to be done? Would banishing these newfangled gadgets, as even Republicans seem ready to do, be enough? Hardly. Any effective response has to address the factors that brought gun lethality to such unthinkable levels. Perhaps [a scoring system could be devised](#) that takes key variables such as ballistics, rapid-fire capability, lack of recoil, accuracy and portability into account.

Then an even greater difficulty becomes apparent. One year after a British subject massacred sixteen persons with a handgun and two semi-automatic rifles, Great Britain enacted the “[Firearms \(Amendment\) Act 1988](#).” Among other things, it prohibits semi-automatic rifles chambered for ammunition more powerful than .22 rimfire. A decade later Great Britain [responded to a school massacre by essentially banning handguns](#). And yes, people actually gave them up.

But we’re not Great Britain, where (at least until Brexit) the social contract has apparently prevailed. In our commercialized, ideologically polarized culture any proposal to effectively reduce gun lethality would provoke a vicious struggle between unyielding interests. And should reason overcome egoism and self-indulgence, and a product not hopelessly watered down by commercial, enthusiast and ideological interests is actually produced, how would one implement it? Could millions of murderous weapons be peacefully removed from circulation?

But we’re probably ahead of ourselves. Perhaps the best place to start isn’t with lawmaking but with [\(as we previously suggested\)](#) a national conversation about guns and the meanings we attach to their possession and use. What needs do firearms fulfill? How would massively “thinning the herd” affect everyday life? Our values? Our relationships? Our sense of self? Perhaps once we understand and acknowledge the “why’s,” devising and implementing the “how’s” can come more easily.

Hopefully it’s not too late to start.

Posted 2/7/16

BY HOOK OR BY CROOK (Part I)

*In a last-ditch effort to stem gun violence,
a frustrated Prez turns to executive action*

By Julius (Jay) Wachtel. Sometimes it would be nice to be proven wrong. Back in '08, only days after the election, [we predicted](#) what then seemed obvious: that for the foreseeable future, gun control was indeed “dead”:

In this badly divided nation firearms have been a surrogate in a culture war that's replayed every four years. When President-elect Obama criticized our tendency to “cling” to guns and religion he got it perfectly right. It was an amazingly insightful and honest comment that he will never repeat in public, and which he will never, ever try to express through meaningful gun control legislation.

According to the [Centers for Disease Control](#), there were 21175 gun suicides and 11208 gun homicides in 2013. More than five-hundred additional fatalities were caused by an accidental discharge. And while gun deaths are down from their peak during the crack-crazed decades of the eighties and early nineties, the toll remains by any measure deplorable. (The FBI [recently announced](#) that during the first six months of 2015 violent crime mostly increased, and in some geographical areas, significantly.) Yet, despite [widespread public support](#) for preventive measures such as extending background checks to cover private sales, Congress has rebuffed all attempts to intervene. Even after the [massacre](#) of fourteen innocent persons by a pair of assault-rifle toting domestic terrorists, legislators have steadfastly refused to consider bringing back the (admittedly [toothless](#)) assault weapons law.

With the Feds out of the picture, movement on gun control has been up to States and localities. Aside from a few isolated exceptions, they've addressed the carnage by [further deregulating gun acquisition and possession](#). What happened last year is instructive. In line with the “good guy with a gun” fiction, Kansas, Maine and Mississippi passed laws allowing concealed carry without a permit, while a host of other states, from Georgia to Texas, liberalized the issuance of concealed carry permits and expanded the places where guns could be covertly toted to include parks, schools and universities.

Last month the Prez said “enough.” Since Congress is unlikely to consider let alone pass gun control legislation during an election year, he turned to his sole remaining option: executive action. A detailed [press release](#) set out four objectives:

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1. Keep guns out of the wrong hands through background checks
2. Make our communities safer from gun violence
3. Increase mental health treatment and reporting to the background check system
4. Shape the future of gun safety technology

Natch, “the Devil is in the details.” So let’s take it one goal at a time.

First, and most importantly, the proposal intends to “keep guns out of the wrong hands” by reducing the number of guns that are acquired *sans* background check. Under Federal law only licensed gun dealers must run prospective buyers through a criminal record check. In most States it’s perfectly legal for unlicensed persons whose activities don’t amount to “dealing” to sell and trade guns, no reporting, record checks or other paperwork required. In effect, the only way to increase the proportion of vetted gun transfers is to bring more gun sellers into the fold of licensees:

Clarify that it doesn’t matter where you conduct your business – from a store, at gun shows, or over the Internet: If you’re in the business of selling firearms, you must get a license and conduct background checks...

What does it mean to be “in the business of selling firearms”? Pop a Dramamine(r), then check out what the [law](#) has to say:

18 USC 921 (a) (11) The term “dealer” means: (A) any person engaged in the business of selling firearms at wholesale or retail...

18 USC 921 (a) (21) The term “engaged in the business” means: (C) as applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms...

18 USC 921 (a) (22) The term “with the principal objective of livelihood and profit” means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection...

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Unlicensed gun dealing is a [straight felony](#), punishable by up to five years imprisonment (18 USC 924 [a][1][D]). In your blogger's experience as an ATF agent and supervisor, it would be an understatement to say that the statute is sparingly applied. Given the hobbyist exception and absence of a numerical threshold, the wiggle room of just what it means to be a gun dealer makes agents reluctant to investigate and prosecutors loath to file unless firearm quantities are substantial and there is demonstrable harm. Evidence that an unlicensed suspect bought (or, even better, used confederates to buy) dozens of guns from licensed dealers or at gun shows, resold them, and that some were promptly recovered from evildoers by police would form an acceptable case. Anything much short of that is unlikely to be prosecuted.

That's not to say that viable cases are rare. Gun trafficking, as we've pointed out in the posts and articles referenced below, is a widespread problem. In locally-brewed schemes, street dealers use straw buyers to acquire guns for resale to thugs and underage persons. Often there is an interstate aspect. Trafficking rings patronize gun dealers in States with permissive laws (say, Arizona, which allows private persons to buy as many handguns as they wish, cash-and-carry) and resell guns, at great profit, in neighboring States with strict gun laws (say, California, which limits handgun purchases to one a month and has a ten-day waiting period.)

Trafficking schemes cause serious harm. Yet they are unlikely to be discouraged by the President's actions, which cannot alter the ambiguous definition of "being in the business." True enough, a core function of any law is to deter those who would be deterred, so jawboning might have some value. While real traffickers are unlikely to be scared straight, casual traders might cut back. Maybe a few more guns will go through normal channels and be subject to a record check. Maybe that will discourage some evildoers from getting a gun. Maybe.

Well, we've scoured the President's first objective. Part II will cover the three that remain. Check back soon!

Posted 3/4/16

BY HOOK OR BY CROOK (Part II)

***Smart enforcement could “make communities safer”
even if new laws are out of reach***

By Julius (Jay) Wachtel. In January the President announced he was taking executive action to stem gun violence. [His plan](#) has four objectives. First and most importantly, guns will be kept from falling into the wrong hands by increasing the proportion of transfers that go through licensed dealers, which, unlike casual “traders,” must perform background checks. Still, the ambiguous legal definition of “dealing” in firearms won’t change. ATF will reportedly distribute brochures at gun shows setting out its interpretation of the law. We felt that while some traders might reduce their volume or stop altogether, vague threats are unlikely to have much effect on gun trafficking.

This week we’ll take a closer look at the President’s remaining objectives:

- Make our communities safer from gun violence
- Increase mental health treatment and reporting to the background check system
- Shape the future of gun safety technology

To make communities safer President Obama proposed increasing ATF’s ranks by two-hundred special agents and investigators in his FY 2017 budget. It’s a modest increase, as ATF’s ranks included about 2,490 special agents and 780 licensee investigators in [FY 2014](#). Still, two-hundred is better than no-hundred. Say that ATF’s ranks really *do* increase. How would it get the biggest bang for the taxpayer’s buck? In line with the President’s first goal, it could turn up the heat on unlicensed gun sellers. But there’s a better approach. ATF operates projects around the U.S. that trace guns recovered by police to their first retail dealer. [As we’ve reported on at length](#), applying indicators of trafficking; for example, quantity purchases, brief lag before recovery, and sale and recovery in different States, has led to many significant cases. It’s a politically savvy approach, as objections usually vanish when it’s pointed out that agents only intervened after police seized guns on the street.

Could an expanded recovery-based investigative approach help make communities safer? [A program](#) conducted in Southern California during 1992-1995 yielded 28 criminal cases, with diversions ranging all the way to more than *three-thousand* guns.

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Last week [a Kansas man was served with a restraining order](#) at the industrial plant where he worked. According to his former girlfriend, Cedric Ford, 38, was “an alcoholic, violent, depressed, it’s my belief he is in desperate need of medical and psychological help!” Ford abruptly left work, then returned with an assault rifle. He opened fire, killing three and wounding fourteen others before a police officer shot him dead.

Ford’s rampage is the most recent of a seemingly never-ending stream of mass shootings. Three years ago “60 Minutes”[aired an episode about such events](#). Most of the gunmen – and they always seem to be men – had serious mental problems. In late 2014, after a massacre by a mentally disturbed 22-year old who [killed six and wounded fourteen](#) near a university campus, California enacted a statute that empowered police and family members [to obtain a restraining order](#) against someone thought to be a threat, barring their possession of firearms for twenty-one days. But under Federal law, even a diagnosis of mental illness is insufficient to bar the purchase or possession of a firearm:

[18 USC 922\(g\)\(4\)](#): It shall be unlawful for any person who has been *adjudicated as a mental defective* or who has been *committed to a mental institution* to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.
(Emphasis ours)

[According to ATF](#), “adjudicated” means a formal finding by a “court, board, commission or other lawful authority” that a person’s mental condition makes them a danger to themselves or others or renders them unable to manage their own affairs.

Adjudicated mental defectives are supposed to be flagged in the gun background check system maintained by the FBI. In many States [that happens infrequently](#), inconsistently, or not at all. On April 16, 2007 Sung Hui-Cho shot and killed 32 persons and wounded 17 with two pistols that he bought at gun stores. Cho was previously ruled mentally ill by a judge, but [Virginia never flagged him](#) in the database. President Obama’s executive order seeks to remedy such lapses, in part by [addressing privacy laws](#) that dissuade jurisdictions from reporting their adjudicated mentally ill. In addition, the Prez would have Social Security report beneficiaries who are mentally unqualified to acquire and possess firearms.

Perhaps surprisingly, not everyone shares these concerns. Advocates for the mentally ill worry that new gun possession rules might unfairly stigmatize persons with mental problems. Their views are reflected in [an academic paper](#) posted on the National Institutes of Health website, which characterizes mass shootings as “anecdotal

distortions of, rather than representations of, the actions of ‘mentally ill’ people as an aggregate group”:

Our brief review suggests that connections between mental illness and gun violence are less causal and more complex than current US public opinion and legislative action allow...That is to say, gun violence in all its forms has a social context, and that context is not something that “mental illness” can describe nor that mental health practitioners can be expected to address in isolation.

Then there’s Congress. On the one hand, one day after the San Bernardino massacre, Rep. Paul Ryan (R-Wis.) agreed that “people with mental illness are getting guns and committing these mass shootings.” On the other, [he instantly rejected calls for toughening background checks](#). He even swatted away a move that would have flagged persons on no-fly lists, suggesting it violated due process. Legislative proposals in both areas [were simultaneously rejected](#) in the Senate.

Finally, President Obama directed the Government to “conduct or sponsor research into gun safety technology that would reduce the frequency of accidental discharge or unauthorized use of firearms, and improve the tracing of lost or stolen guns.” He is in effect plugging so-called “[smart](#)” or “[personalized](#)” guns, which, like the ideal pooch, respond only to commands from their owners.

There are several ways to personalize guns. Radio-frequency chips enable locked firing mechanisms when they receive a coded signal from, say, a wrist band. Unlocking can also be accomplished biometrically; for example, by scanning one’s palm or fingertips. A more sophisticated technique involves measuring one’s grip. And so on. Proponents see the benefits as obvious. Stolen smart guns can’t be readily reused. Cops, householders and CCW permittees can’t be shot with their own weapons. Children can’t misuse family guns. And so on.

But technology is tricky. Firearms are, first and foremost, mechanical contraptions. Recognition and blocking mechanisms would have to endure the phenomenal forces generated by the firing process. Smart guns used for self-defense or by police would have to correctly identify their authorized users and function perfectly even during physical combat, like rolling around on the ground. Even if such perfection is realized, gaining measurable benefits would require that we convince ordinary gun owners to trade in their toys. Unless the Prez wields a cudgel far more substantial than an executive order, that seems pretty far-fetched.

This brings us to the blessed end of the second (and final) part of this series. In Part I we suggested that pressuring casual gun traders to get licensed or stop selling guns would have little effect on gun misuse. Here we found a little more to cheer. Expanding ATF's ranks could be a positive move, especially if additional resources are devoted to combatting firearms trafficking. Tightening restrictions on gun possession by the mentally ill could also be worthwhile. Alas, to be effective it would require passing new gun laws, a practical impossibility at the Federal level. As for "smart guns," they seem at best a fanciful distraction.

Meanwhile, the carnage continues.

Posted 6/2/14

COMING CLEAN IN SANTA BARBARA

Good police work could have prevented a massacre

For Police Issues by Julius (Jay) Wachtel. During the past decade a wave of mass shootings has drawn attention to the threat posed by the armed and mentally ill. Federal law prohibits firearms possession by persons who have been adjudicated to be mentally defective. But adjudication is controlled by State laws, and most require proof, before someone can be detained, that they pose an imminent physical risk to themselves or others. Absent demonstrably violent behavior, that's a tough standard to meet. So in practice, mental issues are usually only taken up in court after a crime has already occurred.

So much for prevention!

It's usually up to police to collect and present evidence of dangerousness. When Santa Barbara (Calif.) sheriff's deputies knocked on [Elliot Rodger's](#) apartment door on April 30, the 22-year old Isla Vista resident and sometime college student was not an unknown commodity. He had come to official attention twice before, once as the victim or instigator of a minor brawl, and again as the complainant in a petty theft. On this occasion the circumstances were different. Alerted by Mr. Rodger's parents that their son, who had a history of psychological issues, might be experiencing an emotional crisis, state mental health authorities alerted police. Several officers promptly conducted a "welfare check." After reportedly spending ten minutes with Mr. Rodger they left.

Three weeks later Elliot Rodger would become a mass killer, stabbing three students to death, then gunning down three others and wounding thirteen. He left behind a thick manifesto excoriating the many co-eds who had spurned his advances. Yet according to Santa Barbara County sheriff Bill Brown, the deputies who spoke with Rodger found him in good mettle, with a "very convincing story" that persuaded them he did not pose a threat.

Rodger himself would have disagreed. In his manifesto he wrote that had deputies entered the apartment, he would have surely been arrested. Aside from his as-yet incomplete rant, which professed his intention to commit mass murder, he had three high-powered pistols, a large quantity of ammunition and numerous ammunition magazines.

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But the officers stayed outside. According to Sheriff Brown, they had found no legitimate reason to pursue the matter. After all, Rodger had his rights.

California requires that all gun sales, including private transactions, go through a dealer and be recorded with the state. A ten-day waiting period is also in effect. Computerized decades ago, the “Automated Firearms System” (AFS) allows peace officers to instantaneously determine if someone legally purchased a handgun in California by entering their name and birthdate into any police terminal. (As of this year perpetual, centralized records of long gun transfers will also be kept.) Had the sheriff’s dispatcher or one of the deputies bothered to check, they would have immediately discovered that Mr. Rodger had been amassing pistols since turning 21, the minimum legal age for buying a handgun.

Now comes some informed speculation. To someone who spent his career in law enforcement, it seems inconceivable that an officer who knew that Mr. Rodger had bought three handguns in quick succession would not press his inquiries and ask to see the weapons, and if told “no” to cajole and insist, in the way that cops do every day when dealing with recalcitrant citizens. This, as we know, didn’t happen, as neither the dispatcher nor the responding officers had checked to see whether Mr. Rodger had guns.

This failure to do some very basic fact-gathering is plainly obvious to any law enforcement professional. One assumes that in the future sheriff’s dispatchers will run AFS checks so that deputies are properly informed. Yet Sheriff Brown’s comments are not reassuring. True enough, dealing with the mentally ill is not simple. And no one wants cops to overstep. But when the sheriff of Santa Barbara County puts off his officers’ failure to act to the complexities of the factual and legal environment, he is being disingenuous. Street cops are not unfamiliar with the mentally ill, and fully expect them to dissemble. Any reasonably competent officer who knew that Rodger had a small arsenal would have been legally justified to press his inquiries beyond the front steps, and would have felt morally compelled to do so. Even if Mr. Rodger didn’t cooperate, minimal investigation would have yielded plenty of cause (among other things, ominous YouTube postings) to search his apartment and detain him for mental evaluation.

Now, days after the tragedy, with calls for more tightly regulating gun sales, lowering the legal threshold of dangerousness, and even creating mental health teams to respond with deputies, it seems that the Santa Barbara Sheriff’s Department has artfully sidestepped the real culprit: shoddy policing. As cops well know, in the real world of limited time and resources there is no substitute for doing a quality job. When a chief law enforcement officer deflects blame by attributing a preventable tragedy to the

supposedly greater flaws of the system, he's essentially given up. Hopefully his subordinates won't follow suit.

Posted 12/12/07

**DISTURBED PERSON + GUN = KILLER
DISTURBED PERSON + ASSAULT RIFLE =
MASS MURDERER**

By Julius Wachtel, (c) 2010

This year marks the sixtieth anniversary of the AK-47, the weapon designed by the famous [General Mikhail T. Kalashnikov](#) to help Communists win the struggle against Western imperialism. From the jungles of Southeast Asia to the killing fields of America's inner cities, the simple, reliable weapon became an instant hit. Now the battleground has expanded into the epicenters of capitalist consumption. We're talking, of course, about shopping malls.

It's unlikely that the [19-year old gunman](#) who murdered five in a Nebraska mall last week knew anything about the political history of the gun in his grasp. What little is known paints him as a mentally disturbed teen playing out his demons in the established pattern: grab a gun and lots of ammo, go to a place where people gather and shoot as many innocent strangers as you can. Then reload.

What's to be done? Apparently, nothing. Thanks to permissive laws that make it virtually impossible to force anyone to accept treatment, the mentally ill are left to medicate themselves, or not, and the rest of us are left to duck and cover. (Anyone who thinks that's too harsh an assessment should go be a cop or social worker, then report back.)

If we can't do anything about individuals, what about guns? Oh, please! When a weak, loophole-ridden piece of legislation like the [Federal assault weapons ban](#) expires and even the Democrats applaud, there is absolutely no hope of regulating ourselves out of this mess. Now, it's true that a handful of States, including California, have laws that make high-caliber, high-capacity shoulder-fired weapons less available. But since these can be legally purchased elsewhere (e.g., Arizona, Texas, Nevada, Washington, etc.), with no ID required when buying from private parties or at gun shows, the impact of localized restrictions is negligible.

Wackos and assault rifles are an impossibly lethal combination. Handguns have limited range and their projectiles can usually be defeated by quality ballistic garments.

But rifle cartridges are far more powerful, imparting a velocity, hence energy, that allows most bullets beyond a .22 short to penetrate ordinary ballistic vests (those that can stop rifle rounds are far too heavy and cumbersome to wear on patrol). The large magazine capacities and high cyclic rates of civilian assault-type rifles can pin down anyone reckless enough to advance on a shooter. That's what LAPD discovered during the infamous [North Hollywood shootout](#) of February 28, 1997, when two bank robbers armed with a 9mm pistol and five semi-auto rifles (several made full auto, an illegal but often simple conversion) held off platoons of cops, wounding eight officers and five civilians.

According to the FBI, only 4% of [firearms murders](#) in the U.S. between 2002-06 were committed with rifles. But for [killings of police](#), the figure was 18%. Why are officers disproportionately vulnerable to long gun fire? FBI data reveals relatively few through-the-vest shots. But there's something else that makes rifles so lethal. It's the ability to accurately place a shot at distance, in the most vulnerable part of the body and the one most difficult to protect: the head. Between 1997-2006, 58% of officers killed by gunfire died from head or neck wounds (gun type wasn't specified.) A tragic, well-known Southern California example is the February 1994 murder of [LAPD Officer Christy Hamilton](#), struck above the vest with a .223 caliber round fired from an AR-15 rifle. Her assailant, a 17-year old youth who murdered his father, then committed suicide.

Many police agencies shifted tactics after Columbine. It's now common for cops to carry rifles, and when there is an "active shooter" they don't necessarily wait for SWAT. But impulsively going after a madman with a rifle is incredibly dangerous. If the bad guy takes cover and simply waits a dead or wounded officer is likely. Even if the good guys ultimately triumph, by the time that police arrive or the shooter kills himself it's usually too late.

So what's the solution? Only days after Nebraska a disaffected 24-year old wielding a rifle, two handguns, a pair of smoke grenades and a backpack full of ammunition shot nine and killed four in Colorado. His spree was finally brought to an end by an armed ex-Minneapolis cop working as an armed security guard. Setting aside that it *was* a guard with police experience, the event was instantly seen as confirmation of the value of citizens carrying guns. But consider another example. In November 2005 [Brendan McKown](#), 38, a CCW permit holder with *no* police experience drew his pistol as Dominick Maldonado was shooting up the Tacoma Mall with an AK-47. Not wanting to kill a "kid," McKown put his gun away and tried to talk Maldonado into giving up. Maldonado aimed the rifle. McKown went for his pistol, but before he could get it out he was shot multiple times, leaving him a paraplegic. (In all, six citizens were shot; McKown was the most seriously injured. Maldonado got a life sentence.)

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In the end, neither SWAT teams nor armed citizens are a realistic solution to the threat posed by assault rifles. Thanks to our culture's infatuation with guns and politicians' reluctance to call a halt to the insane escalation of firepower, we're entering an era where no one is safe from angry young men and their killing machines. Do we really want our cities to turn into Baghdads? Whatever one's views on the Second Amendment, this cannot be what the Founding Fathers intended.

Posted 1/11/17

DO GUN LAWS WORK?

Are they doing any good? We crunch the numbers to find out.

By Julius (Jay) Wachtel. Once again, California is number one! No, we're not talking about smog or traffic jams. In December the Law Center to Prevent Gun Violence (LCPGV) released its annual [Gun Law Scorecard](#), honoring California, as has become customary, as the State with the strongest gun laws. States are graded according to the quantity and quality of their efforts. For example, [extending background checks to all gun transfers](#), including private party and gun-show sales – something that California and eighteen other top-ranked States do – earns lots of points. [Allowing concealed carry without a permit](#) – the law in Alaska (44/50, Grade = F), Arizona (47/50, Grade = F) and six other States – draws a major spanking.

Each year the LCPGV compares its rankings to State gun death rates published by the Centers for Disease Control. According to its website, this process reveals “a significant correlation between high gun law scores and low death rates and vice versa.”

Everyone who follows this blog's gun control section knows that its author, a retired ATF agent, favors strictly regulating the gun marketplace. Yet as we've often pointed out, so many firearms are already in circulation that the real-world effects of gun laws must be inevitably muted (see, for example, “[A Ban in Name Only](#)”). We decided to gather existing data and check things out. Do the numbers really support the notion that stronger gun laws lead to fewer gun deaths? Data was collected for eight variables: four are possible “causes”, and four are possible “effects”:

Causal factors

- **Law score:** Strength of State gun laws, 1 (weakest) to 50 (strongest). For clarity of analysis we inverted [LCPGV's 2016 scorecard](#), which ranked State with strongest laws as #1, and the weakest as #50.
- **Poverty rate:** 2015 poverty rates, by State. From the [U.S. Census](#).
- **Urbanization:** 2010 urban percentage of population, by State. From U.S. Census (via [Iowa State University](#)).
- **Gun ownership:** Proportion of households with guns, 2002. From [Pediatrics](#). (While dated, this is the only national study we found where householders were specifically asked whether they kept guns. More recent attempts tend to rely on

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proxy measures of gun ownership, such as [the number of Federally-registered firearms per State](#)).

Effect factors (consequences)

- **Homicides:** 2015 homicide rates, gun and non-gun, by State. From the FBI's [Uniform Crime Reports](#).
- **Gun homicides:** 2015 firearms homicide rates, by State. [From the CDC](#).
- **Gun deaths, all causes:** 2015 firearms death rates, all causes (accidents, suicides, homicides), by State. [From the CDC](#).
- **Gun suicides:** 2015 firearms suicide rates, by State. [From the CDC](#).

Below is a matrix that displays the correlations between all pairs of variables.

	Causal factors				Effect factors		
	Law score	Poverty	Urban	Gun ownership	Homicides	Gun homicides	Gun deaths
Law score		-.397**	.639**	-.799**	-.248	-.366*	-.737**
Poverty	-.397**		-.144	.198	.462**	.437**	.406**
Urbanization	.639**	-.144		-.751**	-.013	-.290	-.435**
Gun ownership	-.799**	.198	-.751**		.171	.199	.750**
All homicides	-.248	.462*	-.013	.171		.969**	.634**
Gun homicides	-.366*	.437**	-.290	.199	.969**		.641**
Gun deaths	-.737**	.406**	-.435**	.750**	.634**	.641**	
Gun suicides	-.780**	.225	-.553**	.839**	.184	.196	.866**

Dull stuff: Correlation is measured on a scale of -1 to +1. Zero means no association. +1 is a perfect “positive” correlation, meaning that the variables rise and fall together in lockstep. -1 is a perfect “negative” correlation, meaning that the variables rise and fall in opposite directions in lockstep. Intermediate values signify less-than-perfect associations. Asterisks denote statistical significance, meaning that a relationship exceeds what would be expected by chance alone. One asterisk (*) places the likelihood that a relationship is due to chance at less than .05 (five in one-hundred); two asterisks (**) at less than .01 (one in one-hundred.) More asterisks are better; relationships that get at least one are considered “statistically significant.”

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Is there “a significant correlation between high gun law scores and low death rates”? Moving across the top row, law score, to the effect variables, we find that law scores and homicides from all causes are negatively correlated (-.248), meaning that as law scores go up, homicides go down. This is consistent with LCPGV’s claim. However, the correlation is relatively weak and there is no asterisk, so one cannot rule out that the association is caused by chance. However, law scores demonstrate a moderate, statistically significant negative relationship with gun homicides (-.366*), and a strong, statistically significant negative relationship with gun deaths (-.737**) and gun suicides (-.780**).

So can we conclude that stronger gun laws reduce gun deaths? Not yet. Simple bivariate (two variable) analyses never suffice. It often happens that our variable of interest – here, law score – is strongly associated with a third variable that is the real “cause”. Poverty has the reputation of going hand-in-hand with violence. Its role as a “cause” is borne out by the table, which shows a strong, statistically significant positive relationship between poverty and gun homicides (.437**), meaning they go up and down together. Poverty is also significantly correlated with law scores (-.397**). Their relationship is negative, meaning that as poverty increases, gun laws get weaker. Could it be that when we measure law scores we’re actually mostly measuring poverty? Could poverty be the real culprit?

In the table below we test the effect of law scores on gun homicides, “controlling” for poverty (meaning, removing its influence).

Law score → Gun homicides			
Control variable	Test Variables	Law score	Gun Homicides
Poverty	Law score		-.196
	Gun Homicides	-.196	

That’s right – when poverty is taken out, the relationship between law score and gun homicides (-.366*) becomes non-significant (-.196). Now let’s do the opposite, testing the relationship between poverty and gun homicides, controlling for law score.

Poverty → Gun homicides			
Control variable	Test Variables	Poverty	Gun Homicides
Law score	Poverty		.319*
	Gun Homicides	.319*	

Removing the effects of law score reduces the relationship between poverty and gun homicides only slightly. Poverty is by far the most important influencer. Law scores, by their lonesome, have at best only a mild effect on gun homicides.

On the other hand, the associations between law scores and gun deaths, and law scores and gun suicides, seem far more robust from the very start. Controlling for poverty only reduces the correlation between law scores and gun deaths from $-.737^{**}$ to $-.687^{**}$, and between law scores and gun suicides from $-.780^{**}$ to $-.772^{**}$. Controlling for gun ownership, another variable strongly associated with law scores ($-.799^{**}$) has a greater impact, reducing the correlation between law scores and gun deaths to $-.346^{*}$, and between law scores and suicides to $-.333^{*}$. Still, for each of these relationships the effects of law scores, by their lonesome, remains significant.

Multiple regression analysis was used to assess the cumulative effect of the four causal variables. All together, they explained 28.1 percent of the fluctuation in gun homicides, a modest amount that suggests other important forces are likely at work. However, they did explain a full 75.6 percent of the fluctuation in gun suicides, an impressive result. (We'll leave further number crunching to our intrepid readers. To download the dataset, click [here](#).)

According to the [CDC](#), 63.5 percent of all gun deaths in 2014 (33,599) were from suicide (21,334) and 32.6 percent (10,945) were from homicide. Our number-crunching confirmed statistically significant associations between gun laws, overall gun deaths and gun suicides, but not between gun laws and gun homicides. While our efforts are admittedly limited, they suggest that gun laws as implemented in the U.S. are far more apt at reducing gun deaths from non-criminal rather than criminal causes.

Still, laws have deterrent value, at least for those who would be deterred. If no laws prohibited, say, gun possession by felons, many more would likely acquire guns, and gun mayhem could get much worse. In the messy, real world, even statistically non-significant effects can prove useful. When your blogger and his ATF colleagues took down gun traffickers, many guns were prospectively kept from flowing to the streets. Were some lives saved? Probably. Yet given the limits of enforcement, the impact on the illicit gun marketplace was limited. Did ATF's Long Beach trafficking group have a statistically significant effect on gun homicide in Southern California? Hardly.

Excuses and explanations aside, the failure of tougher gun laws to demonstrate a statistically significant impact on gun homicide inevitably disappoints. Here are a couple suggestions for making things better:

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- Tighten the right screws. As we've repeatedly pointed out (see, for example, "[A Ban in Name Only](#)"), assault weapons prohibitions consistently overlook the one factor that's most closely tied to lethality: ballistics. Address that, and you'll have many fewer deaths.
- Laws can't work unless they're vigorously enforced, or if the opportunity to enforce them is lost. In California all gun transfers [must go through a licensed firearms dealer](#) where they are subject to a background check. State law also limits handgun purchases to [one a month](#). However, these rules are much less effective if corrupt dealers are left to peddle guns out the back door, or if neighboring States with weak laws (Arizona doesn't limit purchase quantity or frequency) become go-to places for interstate traffickers. (For more about such schemes check out "[Where Do They Come From?](#)" and the blogger's [journal article](#) about gun sources).

Ideological quarrels [have long kept the Federal Government](#) from undertaking and funding gun violence prevention research. Perhaps [the last effort of its kind](#), a meta-analysis published by the CDC in November 2002, concluded that there was insufficient evidence to assess the effectiveness of gun laws in preventing gun violence. With [pitifully few scientists](#) tackling the issue, our ignorance about such things is likely to continue. As for fighting gun diversion on the ground, that requires political will and plenty of resources. Why neither is likely to be forthcoming, at least from the Feds, should be readily apparent.

Posted 4/21/09

DON'T BLAME THE NRA

***America's gun culture exacts a toll,
but it's only a small part of the problem***

By Julius Wachtel, (c) 2010

In 1978 I was testifying in a Phoenix Federal courtroom against a man who repeatedly bought dozens of cheap, new handguns at gun stores and took them to gun shows, where he posed as a "collector" and, in a practice that remains widespread, sold them to all comers, no paperwork, ID or record check required. Many of his guns quickly wound up being used in crimes.

As an ATF agent I was used to investigating such cases, but what surprised me in this instance was the presence in the spectator section of an NRA attorney who flew in specifically for the trial. In time the jury found the defendant guilty of dealing guns without a license and the lawyer disappeared. But his shadow haunted me throughout my career.

Now that our land has suffered the effects of a string of twisted personalities -- Presidential assassin and would-be assassin Lee Harvey Oswald and John Hinckley, Oklahoma bomber Timothy McVeigh, Jewish Community Center shooter Buford Furrow, Columbine High School killers Eric Harris and Dylan Klebold, Virginia Tech killer Seung-hui Cho, and, most recently, the murderously self-pitying [Jiverly Wong](#) and [Richard Poplawski](#) -- one might be tempted to conclude that a straight line leads from the lawyer to the madmen.

Most of my work (I retired in 1998, after working in Arizona, Montana and Los Angeles) involved the investigation of illegal gun sales, by licensed dealers selling them out the back door, and by unlicensed peddlers selling them on the street and at gun shows. While spending countless hours in and around gun stores, gun shows and the cultural backwaters of this other America I came into intimate contact with what is commonly called -- though I think too simply -- the gun subculture.

Yes, those whom I met, sometimes undercover, other times not, liked guns -- a lot. Like me, most were from the working class. Where we differed was in outlook. As an immigrant from troubled Argentina, whose parents barely squeaked through the Holocaust, I was delighted to be in the land of opportunity. Yet the last thing these men (and a few women, as well) manifested was hope. Their invariant rallying cry -- that the

unworthy got the benefits, while the hard-working got the shaft -- placed them in the lunatic extremes of the far right. It also reflected a sense of worthlessness that made more than a few dangerous and many others candidates for a good shrink.

No -- their concerns weren't fundamentally about guns. But when talking about guns, holding guns, or, best of all, firing guns, their eyes lit up and their burdens visibly lifted. Yes, it's pop psychology, but in my mind nonetheless true: many of these gun aficionados, both the outwardly law-abiding and the unabashedly criminal, found in their toys a sense of power and autonomy that was otherwise sadly lacking.

Naturally, those who got famous for the worst of reasons are so beyond the pale that no one, not even an NRA lawyer, would dare stand in their defense. But their twisted justifications, like the sniveling [manifesto](#) that Jiverly Wong used as his excuse for the Binghamton massacre, seem much more a difference in degree than in kind from the pathologies that suffuse much of America's gun culture. Every so often another disturbed gun fanatic will come out, pistols, rifles and shotguns blazing, and a handful of innocents will die. Then after a respectful but pitifully brief interval we'll shrug our shoulders and turn our attention elsewhere.

Still, even neutralizing every murderous extremist would have little effect. We've become so accustomed to gun violence that we seldom think about the gang members, "ordinary" criminals and otherwise law-abiding heads of household who commit countless mini-massacres year-in and year-out with weapons whose unthinkable lethality would have horrified the framers of the Second Amendment.

That's what's really insane.

Posted 6/28/21

DON'T LIKE THE RULES? CHANGE THEM!

*Partisanship shapes how gun laws are interpreted.
And when the other side takes over, the fight is on!*



For Police Issues by Julius (Jay) Wachtel. On March 22 a deranged twenty-one year Colorado man burst into a Boulder supermarket and unleashed a fusillade from a [Ruger AR-556 “pistol”](#), killing ten. In “[Two Weeks, Four Massacres](#)” we mentioned that the weapon (pictured above), which features a “stabilizing brace” instead of a stock, was essentially a short-barreled version of the AR-15 rifle. [Permissive ATF rulings](#) dating back to 2012 have classified weapons so configured as “pistols,” allowing gun makers, sellers and buyers to avoid the elaborate registration and transfer process that the [National Firearms Act](#) imposes on selected firearms. These include fully automatic weapons (“machineguns”) and concealable shoulder-fired guns, including rifles with barrels less than sixteen inches in length.

No longer, says President Biden. On June 7 [the Department of Justice announced](#) that a “continuing epidemic of gun violence” had forced its hand. According to [a proposed regulation](#), “stabilizing braces” could no longer facilitate the masquerade:

Because short-barreled rifles are among the firearms considered unusual and dangerous, subjecting them to regulation under the NFA, it is especially important that such weapons be properly classified. Indeed, firearms with “stabilizing braces” have been used in at least two mass shootings [Boulder and, in 2019, [Dayton](#)], with the shooters in both instances reportedly shouldering the “brace” as a stock, demonstrating the efficacy as “short-barreled” rifles of firearms equipped with such “braces.”

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As one might expect, the AG's move brought plaudits from the "Blues" and generated condemnation from the "Reds." Here's how [a key organization](#) that represents the latter camp denounced the proposal:

The agency's goal is clearly to push many firearms that utilize stabilizing braces into the National Firearms Act (NFA), requiring a \$200 tax stamp and registration. FPC believes that the NFA is an unconstitutional infringement of the People's rights and that the ATF should be abolished. Any law or regulation enforcing the NFA is unconstitutional and immoral.

Proposed regulations must offer a period for public comment. And the pro-gun community promptly leaped in. Comments opened June 9, and by the 24th. [more than one-hundred thousand](#) were posted. We arbitrarily selected two-hundred fifty. No surprise: everyone in this (admittedly, non-scientific) sample vigorously opposed the rule. Their most frequent objection was also the broadest: once again, ATF was trying to desecrate the Constitution. Here are two examples:

- "I believe that the BATFs new proposed rule on pistol braces (2021R-08) is a gross infringement [sic] of our constitutional rights and should be struck down immediately."
- "...These proposed factors are a direct infringement of the second amendment, and give the agency far too much power to incriminate whoever they decide to with ease..."

Some commenters also had practical concerns:

- "...I'm a disabled American. I own a AR pistol with a brace. It absolutely helps me shoot with much less fatigue...I understand there are real criminals out there and I think your agency should probably be going after them instead of violating my rights. We all understand that the ATF doesn't mind using violence to violate the rights of Americans..."
- "...A manufacturer's stated intent on the use and function of product is theirs to define, and in no way should we assume that a government agency should be able to usurp that claim based on how a consumer may use that product."

Others questioned the regulation's effectiveness in preventing violence:

- "...If the overall narrative to enact this proposal is to "save lives" then statistically it will save very few, as braced pistols are very rarely used in shootings."

So what about our introductory ghost? On May 7th., just one month before it acted to prohibit stabilizing braces, the Justice Department announced a regulation that would “modernize” how a firearm “[frame or receiver](#)” is defined. As the housing for a weapon’s firing mechanism, this component (either word describes it) is in effect considered as the firearm, and must accordingly bear a unique serial number that allows its redistributive history to be traced.



ATF’s definition of a receiver excludes those it deems “[less than eighty percent](#)” complete. See its graphic (we enlarged some of the text for clarity). As much an object might *look* like a receiver, if it lacks “holes or dimples for the selector, trigger or hammer pins” it’s “Not a firearm.” Problem is, kits are widely available that furnish all the parts, templates and instructions for making functioning, non-serialized “ghost guns” in one’s workshop, or at home. [DOJ’s](#)

[filing](#) indicates that many not-so-nice people took advantage. During 2016-2020 police reportedly recovered nearly *twenty-four thousand* untraceable “ghost guns,” including 325 used in murders and murder attempts. In 2018 [the Los Angeles Times reported](#) that urban gangs were arming themselves with ghost guns. Police officers have also fallen victim. California Highway Patrol officer Andre Moya [was gunned down with a ghost rifle](#) the following year.

Conventional guns bear serial numbers and can be traced back to their first point of sale. Indeed, your writer made a career of using this information to pursue gun traffickers. (For more about that see “[Sources of Crime Guns in Los Angeles, California](#)”) But ghost guns lack serial numbers, so they can’t be traced. That’s a problem the new regulation would address. Forget that eighty-percent stuff. “Blank” receivers (no holes or dimples) would be likely considered full-fledged guns, thus require a serial number and be subject to Federal and State controls. Here’s an extract from DOJ’s discussion about the proposed rule:

...the new definition more broadly describes a “frame or receiver” as one that provides housing or a structure designed to hold or integrate any fire control component. Unlike the prior definitions of “frame or receiver” that were rigidly tied to three specific fire control components (i.e., those necessary for the firearm

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to initiate or complete the firing sequence), the new regulatory definition is intended to be general enough to encompass changes in technology and parts terminology.

One can well imagine how the gun lobby reacted. Summoning gun enthusiasts to “Help us STOP ATF’s unconstitutional and dangerous proposed ‘rule’ that would radically expand their powers and restrict your rights!” [the Firearms Policy Coalition](#) urged everyone to submit comments and spread the word.

Its “call to arms” likely had an effect. Nearly sixty-five thousand comments were posted between May 20 and June 24, 2021. We (non-scientifically) reviewed two-hundred fifty. Each opposed the new regulation. And just like for stabilizing braces, many blasted ATF for defiling the Constitution. Here are two examples:

- “How dare you consider taking more of our second amendment rights. Our rights have already ben infringed upon and we the people will not bow before the usurpers that have corrupted our nation and our constitution.”
- “This regulation does nothing but infringe on the rights of law abiding Americans with constant harassment through numerous background checks for non firearm parts and endlessly putting roadblocks up to free commerce on parts not under the authority of ATF to regulate as they are not a firearm. Stop harassing citizens for exercising their rights...”

Some respondents worried that the rule would constrain making one’s own guns:

- “Since the founding of the Republic, Americans have made firearms at home. In the twenty-first century, steel and wood have given way to aluminum and plastic. This new rule by the ATF attempts to regulate the making of firearms, by private persons who are not FFL holders, and to regulate those guns which are made within a private residence for personal use...”
- “The ATF must immediately withdraw their proposed rules to criminalize so-called “ghost guns.” To start, the very phrase “ghost guns” is a politically charged pejorative used to scare Americans and justify the infringement on our right to craft a homemade firearm - a right ancillary to the Second Amendment...”

None believed that the regulation would prevent gun misuse. Quite to the contrary:

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- “...These rules will not prevent or even limit gun violence, they only make more law abiding citizens criminals...”
- “...No proposed gun control law - including the proposed regulation of so-called "ghost guns" - will stop criminals from being able to obtain and use firearms in the commission of crimes.”
- “...There is absolutely no data to back up your false claims that these so called “ghost guns” are being used in any crimes or murders. Maybe focus on stopping criminals who are buying illegal guns off the streets and not go after law abiding citizens who would rather build a firearms vs buying one already assembled...”

To be sure, gun control advocates have also stepped up to the plate. Garen Wintemute, an emergency physician who heads UC Davis’ long-standing [Violence Prevention Research Program](#), came out [strongly in favor](#) of restricting ghost guns. We agree. Police have been recovering lots of “ghosts.” Combatting the scourge of gun trafficking requires that guns carry serial numbers so their redistributive history can be traced. That would certainly rule out assembling guns at home.

As for stabilizing braces, our views are mixed. Yes, short-barreled rifles that take advantage of braces to pose as conventional guns are coming up in crimes. Yet we’re not convinced that these firearms represent a unique threat. Our concern about lethality is far more complex. As we mentioned in [“Going Ballistic”](#) it’s much more about, well, ballistics. Projectiles such as those fired from AR-15 rifles (and the brace-flaunting AR-556 pictured above) can easily defeat the protective vests normally worn by police. Indeed, there’s a good reason why cops have turned to armored vehicles. [“Going Ballistic”](#) and [“Massacre Control”](#) suggest that a point system that takes ballistics, ammunition capacity and such into account could be used to identify firearms that are too dangerous for public consumption.

[The Second Amendment](#) has always carried a clearly ideological subtext. Even so, had its drafters realized that their reference to a “well-regulated militia” would be ignored, and that guns would become exceedingly lethal and widely misused, we’re certain that they would have built in some additional safeguards. But they didn’t, so they didn’t. Thanks to a deeply polarized atmosphere and convoluted, precedent-intensive legal system, fashioning an inoffensive “fix” is inevitably complex. And the product can be mind-boggling.

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Don't believe it? Go ahead, just try to get through the proposed regulations. Be sure to have some aspirin close at hand!

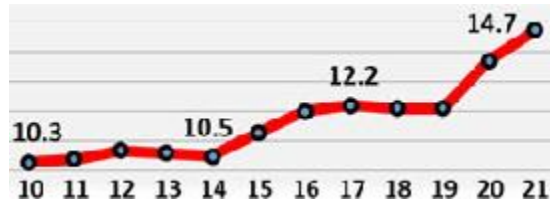
Posted 5/2/23

FEARFUL, ANGRY, FUZZY-HEADED. AND ARMED.

Do “Stand Your Ground” laws needlessly increase gun violence?



For Police Issues by Julius (Jay) Wachtel. America's love affair with the gun is certainly having some predictable consequences. Although we usually avoid kicking things off with numbers, excuse us for mentioning that according to the [CDC's Wonder platform](#), yearly firearm death rates per



100,000 pop. from all causes rose steadily during 2013-2021 (the most recent year of data), going from 10.3 to 14.7, a twelve-year gain of *nearly 43 percent*.

Shocking as these numbers might seem, they haven't drawn much notice. Instead, what's really caught the public eye is an aspect of the mayhem that's usually overlooked. We're talking about more-or-less "ordinary" citizens who are propelled by "[seemingly trivial circumstances](#)" to use firearms as lethal instruments of expression. And as of late, there's been a surfeit of examples:

- [Antioch, Illinois, April 12](#): Apparently annoyed by his neighbor's leaf-blowing, a 79-year old resident with a reputation for quarreling grabbed his handgun and fatally shot the 59-year old man in the head. A murder charge was filed.
- [Liberty, Missouri, April 13](#): It was ten at night when a sixteen-year old Black youth on an errand to fetch his brothers rang the wrong doorbell. That got an 84-year old White man out of bed. Revolver in hand, he supposedly saw the youth pulling on the storm door (that's contested). So he fired, twice. One bullet struck the teen in the head. Miraculously, he survived. According to the prosecutor, the

case has a “racial component.” First-degree assault charges have been filed.

- **[Davie, Florida, April 15](#)**: A couple making a late-evening Instacart delivery drove up the wrong driveway and was shooed away by the homeowner’s son. But after turning around, the vehicle ran over some rocks on the road. That supposedly frightened the homeowner. He opened fire, striking the vehicle’s bumper and flattening a tire. No charges were filed, and police returned the shooter’s handgun. But the local D.A. ordered an inquiry.
- **[Hebron, New York, April 15](#)**: On the same day, a like set of circumstances had a far poorer ending. Realizing that they were in the wrong driveway, a group of friends in two cars and a motorcycle turned around and were on their way out. That’s when the 65-year old landowner, who was reportedly upset by like incidents in the past, opened fire. One of his bullets struck and killed Kaylin Gillis, a 20-year old budding marine biologist. A murder charge was filed.
- **[Gastonia, North Carolina, April 18](#)**: Soon after moving into a quiet neighborhood, a 24-year old man developed a “rep” for yelling at the kids next door. And when they ran into his yard to fetch an errant basketball he came out shooting. Bullets grazed a child and her mother and seriously wounded the dad. Unlike our other examples, the shooter had a recent criminal history and was pending trial for a recent assault-with-a-hammer.

And just as we were trying to put the wraps on this essay came a real stunner:

- **[Cleveland, Texas, April 28](#)**: Five persons ages 8 to 40 were shot dead in rural Texas by their next-door neighbor after asking that he stop firing his AR-15 style rifle in the yard. Deputies had previously confronted Francisco Oropeza, 38, about that, but let him keep the gun. Oropeza fled towards a forest some miles away. And at this writing, he’s still on the lam.

As gun killings increase (again, glance at our introductory graph) episodes where guns are “expressively” misused have captured public and media attention. Inevitably, the blame game is on. When, as in Missouri, the tragedies involve White shooters and Black victims, racial animus inevitably becomes the prime suspect. And it may well be a factor. But how to explain the many episodes where shooters and victims are of the same (usually, White) race? Could it be that White folks have gotten, well, crazier?

COVID’s become a popular explanation (excuse?) for misbehavior. [A 2020 APA survey](#) concluded that thanks to the pandemic’s deleterious effects on social interaction

and such, “we are facing a national mental health crisis that could yield serious health and social consequences for years to come”.

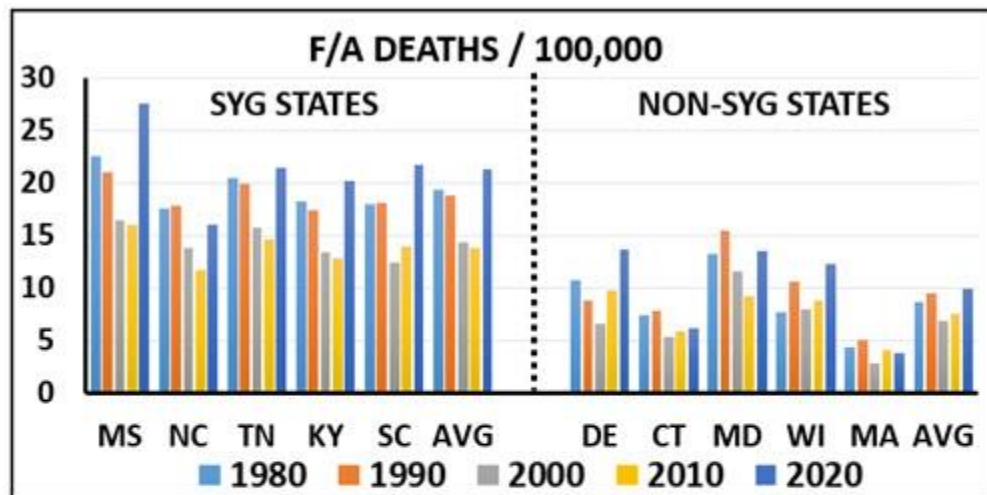
A key shift in the law has also caught blame. Citizens were once required to, whenever possible, “[safely step away](#)” from threatening situations. That began to change in 1994, when Utah passed the nation’s first stand-your-ground (SYG) law. By the end of the last decade, SYG laws graced the codes of thirty states. Could it be, [as the AP recently conjectured](#), that the loosening led to needless violence?

Academic studies suggest the answer is most likely “yes”:

- In 2012 eighteen states had SYG laws. Georgia State University scholars Chandler McClellan and Erdal Tekinan [examined their effects](#). They concluded that “extending the right to self-defense with no duty to retreat to any place a person has a legal right to be” led to a statistically significant increase in death by homicide among White male residents of SYG states. Numbers-wise, it amounted to “an additional 4.59 homicides per 100,000 residents per month per state.” No effects were found on Black persons, or on suicides.
- Last year *JAMA Open* [published a study](#) comparing twenty-three states that enacted SYG laws between 1999 and 2017 with eighteen states without SYG. Three scholars from the UK and a University of Pennsylvania biostatistician concluded, among (many) other things, that SYG laws were “associated” with an increase in firearms homicide of 8 percent nationally, and 10.8 percent in SYG states. But there were marked differences within. Five SYG states – Alabama, Florida, Georgia, Louisiana, Missouri – demonstrated pronounced increases, while seven SYG states – Arizona, Indiana, Michigan, Nevada, Oklahoma, Texas, and West Virginia – seemed unaffected.
- A recent [RAND review](#) of twelve studies concluded that “there is supportive evidence that stand-your-ground laws may increase firearm homicides”. But it tempered its findings by noting that seven concluded SYG’s effects were “uncertain.” That uncertainty was evident in the *JAMA Open* piece, which cautioned that factors including “economic shifts”, local cultures, existing laws and gun availability could affect the interpretation of outcomes.

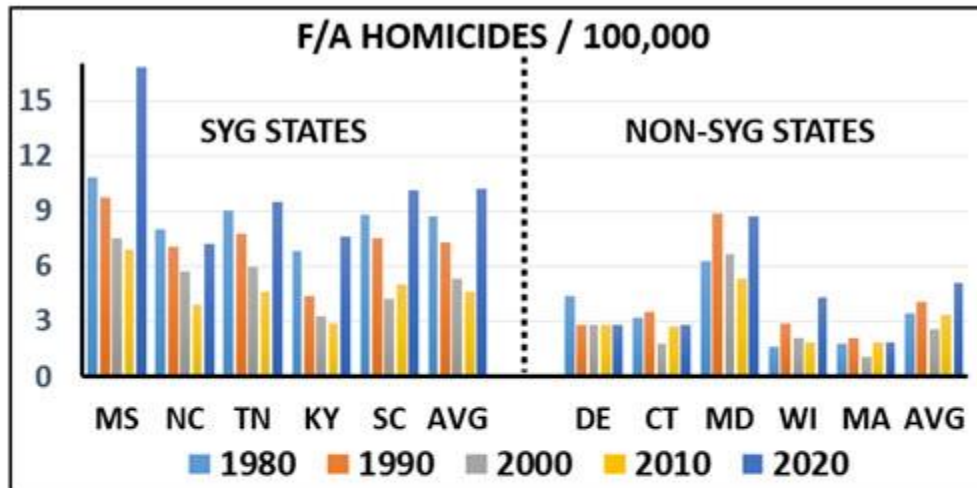
Most of these studies generated output that ordinary earthlings might find perplexing. We wanted something simpler. Excluding D.C. and foreign possessions, [there are presently thirty SYG states and twenty non-SYG](#). We used a statistics package to randomly select five from each group. CDC death rate data

(click [here](#) and [here](#)) was then used to generate a graph that tracks firearms death rates per 100,000 population in ten-year increments between 1980 and 2000 (SYG states on the left, non-SYG on the right):



SYG	1980	1990	2000	2010	%CHG	2020	%CHG	NON	1980	1990	2000	2010	%CHG	2020	%CHG
MS	22.5	21.1	16.5	16	-28.9	27.6	72.5	DE	10.7	8.8	6.6	9.8	-8.4	13.7	39.8
NC	17.6	17.8	13.8	11.8	-33.0	16	35.6	CT	7.5	7.8	5.3	5.9	-21.3	6.2	5.1
TN	20.5	19.9	15.8	14.7	-28.3	21.4	45.6	MD	13.3	15.5	11.6	9.3	-30.1	13.5	45.2
KY	18.2	17.4	13.4	12.8	-29.7	20.2	57.8	WI	7.7	10.6	8	8.8	14.3	12.3	39.8
SC	18	18.1	12.4	14	-22.2	21.7	55.0	MA	4.4	5.1	2.8	4.1	-6.8	3.9	-4.9
AVG	19.4	18.9	14.4	13.9	-28.4	21.4	54.3	AVG	8.7	9.6	6.9	7.6	-10.5	9.9	30.9

There are two %CHG columns: the one on the left lists percentage change in gun deaths between 1980 and 2010, and the second between 2010 and 2020, the period when most SYG laws came into effect. What's apparent is that as the periods transitioned, gun death rates in both SYG and non-SYG states, which had been falling across the board, abruptly shifted direction. Of course, given the national uptick in violence that accompanied the pandemic (see that introductory graph) that was to be expected. But the SYG states' increase seems especially pronounced. *CDC* data also reports gun homicides. Here are those rates:

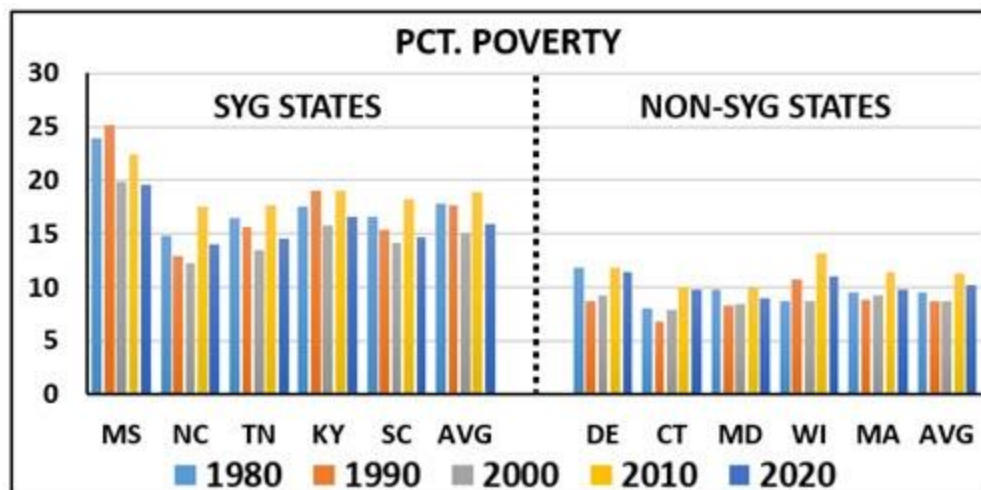


SYG	1980	1990	2000	2010	%CHG	2020	%CHG
MS	10.8	9.7	7.5	6.9	-36.1	16.8	143.5
NC	8	7.1	5.7	3.9	-51.3	7.2	84.6
TN	9	7.8	6	4.6	-48.9	9.5	106.5
KY	6.8	4.4	3.3	2.9	-57.4	7.6	162.1
SC	8.8	7.5	4.2	5	-43.2	10.1	102.0
AVG	8.7	7.3	5.3	4.7	-47.4	10.2	119.7

NON	1980	1990	2000	2010	%CHG	2020	%CHG
DE	4.4	2.8	1.1	5	13.6	7.7	54.0
CT	3.2	3.5	1.8	2.7	-15.6	2.8	3.7
MD	6.3	8.9	6.7	5.3	-15.9	8.7	64.2
WI	1.6	2.9	2.1	1.9	18.8	4.3	126.3
MA	1.8	2.1	1.1	1.9	5.6	1.9	0.0
AVG	3.5	4.0	2.6	3.4	1.3	5.1	51.2

What we've seen so far is consistent with concerns that SYG laws, which were mostly enacted after 2010, may have provoked gunplay. Still, non-SYG Delaware, Maryland and Wisconsin also exhibited substantial upticks. Although their rate increases aren't as drastic, *something* was driving things. And it wasn't SYG laws!

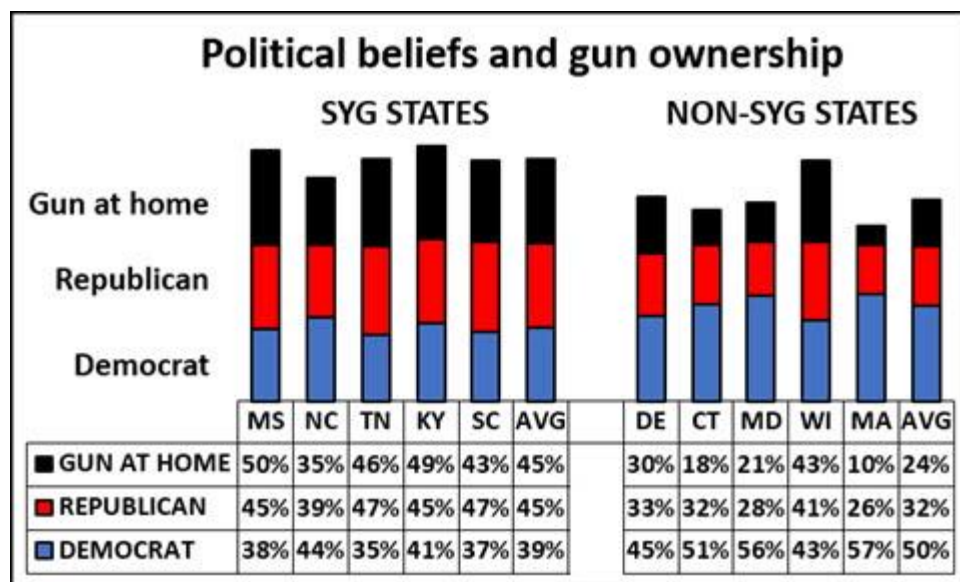
What else could it be? We've frequently harped about poverty's strong association with violence (check out that lead table in "[Woke up, America!](#)"). Here's a graph that compares SYG and non-SYG states poverty-wise:



SYG	1980	1990	2000	2010	%CHG	2020	%CHG	NON	1980	1990	2000	2010	%CHG	2020	%CHG
MS	23.9	25.2	19.9	22.4	-6.3	19.6	-12.5	DE	11.8	8.7	9.2	11.8	0.0	11.4	-3.4
NC	14.8	13	12.3	17.5	18.2	14	-20.0	CT	8	6.8	7.9	10.1	26.3	9.8	-3.0
TN	16.4	15.7	13.5	17.7	7.9	14.6	-17.5	MD	9.8	8.3	8.5	9.9	1.0	9	-9.1
KY	17.6	19	15.8	19	8.0	16.6	-12.6	WI	8.7	10.7	8.7	13.2	51.7	11	-16.7
SC	16.6	15.4	14.1	18.2	9.6	14.7	-19.2	MA	9.6	8.9	9.3	11.4	18.8	9.8	-14.0
AVG	17.9	17.7	15.1	19.0	7.5	15.9	-16.4	AVG	9.6	8.7	8.7	11.3	19.5	10.2	-9.2

Clearly, there's a big difference. SYG states have been economically beset for a very long time. In comparison, their non-SYG brethren have basked in affluence. And while that gap lessened over time, it remains observably pronounced.

Political beliefs and gun availability could also be important. This graph uses data from RAND's estimate of [household gun ownership during 1980-2016](#) by state and the results of Gallup's [2017 poll of party affiliation](#):



Bottom line: residents of SYG States are considerably more likely to be ideologically conservative and to have (at least one) gun at home.

So what's the upshot? Self-help is consistent with conservative political doctrine, which is prominent in SYG states. Residents of SYG states are also more affected by gun violence. And more likely to be dissatisfied with their economic conditions. So it would make perfect sense for them to oppose Government meddling and, as personal safety goes, demand a permissive approach to self-defense. Of course, human nature is fickle. People are fallible, and increased gun availability can greatly worsen the effects of bad

decisions. So that same set of circumstances that led thirty states to enact SYG laws may have brought on a lot more than what their boosters intended.

But we haven't even touched on the consequences of encouraging citizens to use guns on the civil servants who must respond to *all* shootings, SYG or otherwise. Given the risks of working those unpredictable streets, has it made *them* more likely to needlessly use lethal force? Check out what happened to that [well-intentioned armed citizen in Hemet, Calif.](#) when a cop mistook him for being a bad guy. Police officers, too, are fallible humans. But that's something for another essay.

Posted 4/19/21

FOUR WEEKS, SIX MASSACRES

*Would stronger gun laws help? We crunch the numbers.
They're not reassuring.*



For Police Issues by Julius (Jay) Wachtel. When we left off in “[Two Weeks](#)” the toll was three massacres and twenty-two dead in seventeen days. But we had missed one. On March 29, a Maryland man [embarked on a vicious shooting spree](#). His gunfire claimed four lives, including those of his parents, and seriously wounded a fifth person. He then committed suicide. Joshua Green, 27, used two handguns that he bought and legally registered last year. He had no criminal record. So we changed the essay’s title to “Two Weeks, *Four* Massacres.”

Then on April 8, as we began working on this essay, tragedy struck in South Carolina. [A former NFA player used two pistols](#) to slay an elderly physician and his wife and two of their grandchildren at a Rock Hill home. Phillip Adams, 32, also shot and killed a handyman. Adams had played pro football during 2010-2015 but left the sport after suffering several injuries, including at least two concussions. He clearly found the transition to ordinary life difficult. [Family and friends observed](#) that Adams was growing increasingly moody and temperamental and seemed to be “struggling with his mental health.” Of course, no one expected that he’d embark on a murderous spree.

But he did. Tracked by police to his parents’ home, the former athlete shot himself dead.

Then on April 15, when we thought this essay was really, *really* done, a young gunman toting two assault rifles [stormed an Indianapolis FedEx facility](#) (see image above) and opened fire, killing eight and wounding seven. Brandon Scott Hole then committed

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suicide. A former FedEx employee, the 19-year old [was placed on a brief “mental health hold”](#) last year after his mother warned police that he “might try to ‘commit suicide by cop’.” Hole then had a shotgun, which police seized and apparently did not return. But that didn’t slow him down. He went on to legally purchase one assault rifle in July and another in September. Although Indiana has a so-called “[Red Flag](#)” law that can be used to bar gun ownership by mentally disturbed persons (more on that later) it was apparently never invoked.

What could stem the slaughter? Many gun control advocates fiercely insist that stronger laws help. Given your writer’s past career as a Federal firearms agent, he’s not inherently hostile to that approach. Yet when we assessed the effects of gun law strength and related factors on gun deaths and murders four years ago [the results weren’t reassuring](#):

Our number-crunching confirmed statistically significant associations between gun laws, overall gun deaths and gun suicides, but not between gun laws and gun homicides. While our efforts are admittedly limited, they suggest that gun laws as implemented in the U.S. are far more apt at reducing gun deaths from non-criminal rather than criminal causes.

So we did it again. This time we used [Gifford’s widely-accepted scale](#) of gun law strength. Keeping ostensible causes and effects separate, here are our measures (“variables” in statistics-speak):

Causal variables

- **Gun law strength.** [Giffords’ 2020 State gun law strength](#) (range 1-50). Giffords assigns #1 to the State with the strongest laws, and #50 to the State with the weakest. We flipped that around. Scaled low law strength to high law strength.
- **Gun ownership.** [RAND 2016 gun ownership by State](#) (proportion of adults living in a household with a firearm in 2016). Scaled low proportion of gun owners to high.
- **Percent residents in poverty, by State.** [From the Census](#). Scaled few to many.

Effects variables

- **2019 homicide rates/100,000 pop., by State.** [From the CDC](#).

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- **2019 firearm murder rates**/100,000 pop., by State. [From the UCR.](#)
- **2019 firearms mortality**/100,000 pop., by State. [From the CDC.](#)
- **2019 firearms suicide**/100,000 pop., by State. [From the CDC.](#)
- **2017-2021 number of persons shot (killed or wounded) in mass shootings** (four or more shot on a single occasion) / 100,000 pop., by State. [From the Gun Violence Archive.](#) Due to missing or questionable data eight states were excluded. We also did not factor in the [2017 Las Vegas massacre](#), which killed sixty and wounded 411.

Correlation analysis (the r statistic) was used to assess the relationships between pairs of variables. Here's a brief discourse:

Explanation: r 's are on a scale of -1 to +1. If the r is zero the variables aren't associated, meaning that as the scores of one change the other does its own thing. If the r is either 1 or -1 the relationship is in lockstep. If the r is positive, the scores of the variables increase and decrease together; if it's negative, as the scores of one variable increase, the scores of the other decrease. Lesser r 's (say, .2 or -.2) denote weaker relationships, thus less synchronicity in the variables' movements. Due to the nature of the data we omitted the asterisks (*) that report an r 's "significance." However, in our experience any r that's .50 or greater, whether positive or negative, definitely bears attention.

	Homicide	Gun homicide	Gun suicide	Gun death	Mass shoot
Homicide	-	.95	.25	.75	.76
Gun homicide	.95	-	.15	.65	.87
Gun suicide	.25	.15	-	.82	.04
Gun death	.75	.65	.82	-	.47
Mass shoot	.76	.87	.04	.47	-

We first assessed the relationships among the "effect" variables. As expected, each was "positive," meaning their scores increased and decreased together. Many of the relationships were also strong, meaning that the scores changed in substantial synchrony. That's particularly true for homicide and gun homicide, which seem like two measures of the same thing

(nearly 3 out of four murders in 2019 [were committed with firearms](#).) As expected, gun suicides, which accounted for about sixty percent of gun deaths in 2019 (23,941 / 39,707, click [here](#) and [here](#)) are strongly related to overall gun deaths. Mass shootings were also very strongly related to gun homicides, thus homicides overall.

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We then brought in the “causal” variables: gun law strength, gun ownership and percent of residents in poverty. Here’s the matrix with everyone on board:

		Homicide	Gun homicide	Gun suicide	Gun death	Mass shoot	Gun law strength	Gun Owner	Pct Poverty
Causes	Gun law strength	-.33	-.20	-.76	-.73	-.23	-	-.84	-.44
	Gun ownership	.26	.17	.84	.75	.16	-.84	-	.33
	Pct poverty	.74	.72	.30	.64	.63	-.44	.33	-
Effects	Homicide	-	.95	.25	.75	.76	-.33	.26	.74
	Gun homicide	.95	-	.15	.65	.87	-.20	.17	.72
	Gun suicide	.25	.15	-	.82	.04	-.76	.84	.30
	Gun death	.75	.65	.82	-	.47	-.73	.75	.64
	Mass shoot	.76	.87	.04	.47	-	-.23	.16	.63

Stronger gun laws are supposed to reduce crime. And maybe they do. All the r 's for gun law strength are negative. As gun laws get tougher, each of the effect measures (say, gun deaths) declines. And as gun laws weaken, the other measures increase. But the strengths of the relationships varies. Gun law strength seems only moderately associated with homicide overall ($r=-.33$) and its relationships with gun homicides ($r=-.20$) and mass shootings ($r=-.23$) are relatively weak. On the other hand, gun law strength is strongly associated with both gun suicides ($r=-.76$) and gun deaths ($r=-.73$).

State gun suicide rates			
Gun law strength	-.76	Gun owner	.84
Control for gun Ownership		Control for gun law strength	
Gun law strength	-.20	Gun owner	.57

But there may be a statistical fly in the ointment. Gun law strength has a very robust, negative relationship with gun ownership rates ($r=-.84$). Problem is, strong associations between variables can exaggerate the apparent strength of their relationships with other variables. So we turned to partial correlation. We begin on the left side of the graph, which reports the relationship between gun suicide rates and gun law strength. Note that when we “control for” (exclude the influence of) gun ownership, the relationship between gun suicides and gun law strength plunges from $r=-.76$ to $r=-.20$. Switch to the right side, which describes the relationship between

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gun suicide rates and gun ownership. Once we exclude the influence of gun law strength, the association between gun suicides and gun ownership falls from $r=.84$ to $r=.57$. What remains, though, is still a good-sized r . Our takeaway is that gun ownership rates seem to be a substantially more powerful influencer of gun suicides than gun law strength.

State gun death rates			
Gun law strength	-.73	Gun owner	.75
Control for gun Ownership		Control for gun law strength	
Gun law strength	-.30	Gun owner	.35

Let's do the same with gun death rates. Once gun ownership gets the boot, the association between gun deaths and gun law strength drops precipitously, from $r=-.73$ to $r=-.30$. Same thing happens when we exclude the influence of gun law strength from the association between gun death rates and gun ownership. Bottom line: when it comes to gun deaths, gun law strength and gun ownership are somewhat important, but perhaps much less so than what one might expect.

And things get more interesting. Check out this matrix. Gun law strength and gun ownership are weakly associated with the three variables that reflect guns' criminal misuse: homicides, gun homicides and mass shootings. Those "effects" seem far better explained by another "cause." Can you find it?

	Homicide	Gun homicide	Gun suicide	Gun death	Mass shoot	Gun law strength	Gun Owner	Pct Poverty
Gun law strength	-.33	-.20	-.76	-.73	-.23	-	-.84	-.44
Gun ownership	.26	.17	.84	.75	.16	-.84	-	.33
Pct poverty	.74	.72	.30	.64	.63	-.44	.33	-

Good job! Yes, it's poverty. Essays in our [Neighborhoods special topic](#) have long examined this social condition, which many criminologists consider a key underlying factor in crime and violence. Check out the relationships between poverty and homicide, poverty and gun homicide, poverty and gun deaths and poverty and mass shootings. Each r is positive and strong, meaning that as poverty increases, so do the others, and in nearly lock-step fashion.

Everyone knows that many poor neighborhoods are burdened by gun violence. So here's a "lever," right? Well, not so fast! After all, the apparently strong relationships between poverty and its soulmates could be a instant replay of what happened earlier. Poverty has moderately strong relationships with both gun ownership and gun law

strength. Is it possible that their influence is exaggerating poverty's relationships with other variables? Once again let's turn to partial correlation.

Look at the left graph. "Controlling" for either gun ownership or gun law strength hardly affects the " r " between homicide deaths and poverty. It remains very strong. Ditto gun homicides and poverty.

State homicide rates				State gun homicide rates			
Poverty rates		.74		Poverty rates		.72	
Control for gun ownership		Control for Gifford gun law strength		Control for gun ownership		Control for Gifford gun law strength	
Poverty rates	.72	Poverty rates	.70	Poverty rates	.71	Poverty rates	.71

The next two graphs convey about the same story. Controlling for gun law strength slightly reduces the association between gun death rates and poverty, but it remains robust at $r=.52$. And the strong relationship between mass shootings and poverty is unaffected.

State gun death rates				Mass shootings – persons shot rates			
Poverty rates		.64		Poverty rates		.63	
Control for gun ownership		Control for Gifford gun law strength		Control for gun ownership		Control for Gifford gun law strength	
Poverty rates	.63	Poverty rates	.52	Poverty rates	.63	Poverty rates	.62

So what's the takeaway? Here are the perpetrators of the six massacres in our series:

- **March 16:** [Robert Aaron Long, 21](#), used a 9mm. pistol he bought that morning to murder eight at three Atlanta-area massage parlors
- **March 22:** [Ahmad Al Aliwi Alissa, 21](#), used an AR-556 "pistol" to murder ten at a Boulder, Colorado supermarket. He also carried a 9mm pistol

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- **March 29: Joshua Green, 27**, (mentioned here) used two handguns to murder four persons in Maryland
- **March 31: Aminadab Gaxiola Gonzalez, 44**, used a 9mm. pistol to murder four persons at a Southern California business
- **April 8: Phillip Adams, 32**, (mentioned here) used two pistols to murder five persons at a private residence in South Carolina
- **April 15: Brandon Hole, 19**, (mentioned here) used two assault rifles to murder eight persons and wound seven at an Indianapolis FedEx facility

Best we can tell, none of the gunmen – and all *were* male – was a convicted felon or had ever been committed to a mental institution. Best we can tell none was prohibited by either Federal law or, indeed, the law of *any* State from owning or acquiring the firearms they misused. That includes California, which Giffords commends for having [the strictest gun laws in the U.S.](#)

Is it really that hopeless? Let's go through some of the "levers".

- **Mental health.** Four shooters – Long, Alissa, Adams and Hole – had serious mental issues of which friends and family were well aware. Twenty States have ["Red Flag" laws](#) that empower courts to issue ["extreme risk protection orders"](#) that authorize police to seize guns from potentially dangerous individuals. Applications for these orders can be made by law enforcement officers and, in seven States, by family members. Alissa, Hole, Gonzales and Green lived in states with Red Flag laws (Hole's Indiana requires that police apply.) Of course, obtaining such orders is time-consuming. Serving them [can also be risky](#). And getting family members to inform authorities or cooperate is no easy task.
- **Waiting periods.** Of the six states in our series, [only California imposes a waiting period](#) that delays the delivery of guns purchased at retail (it's ten days.) Gonzalez, the lone California resident, used guns that he reportedly owned for some time. That doesn't necessarily mean waiting periods are useless. Long, whose rampage began only hours after buying a gun, resides in Georgia, which has no waiting period. Had he been forced to wait a week or so, he might have "cooled off" or reconsidered.
- **Minimum age.** [Federal laws](#) prohibit licensed gun dealers from selling handguns to persons under twenty-one and long guns (rifles and shotguns) to

persons under eighteen (18 USC 922[b][1]). [A handful of states](#) have more stringent provisions for long-gun buyers. For example, [California](#) only allows dealers to sell bolt-action type rifles to persons under twenty-one, and then only if they have a hunting license. However, no state restricts the purchase or possession of firearms by otherwise qualified persons who have reached full adulthood meaning twenty-one. Hole, the only killer younger than twenty-one, was of legal age to buy long guns of any kind in Indiana and nearly everywhere else.

- **Gun lethality.** Four killers used handguns; two, Alissa and Hole, were armed with assault weapons. (As we mentioned in [our previous essay](#), Colorado classified Alissa's firearm, really a short-barreled AR-15, as a "pistol.") That post also addressed the lethality of modern-day handguns and the vicious effects of the ammunition used by assault weapons. Yet even in supposedly gun-hostile California, legislators invariably build in loopholes that lessen the impact of gun control laws on enthusiasts and the firearms industry. Given that propensity, when it comes to guns with fearsome ballistics our response is always the same: "[Ban the Damned Things!](#)"

Full stop: what about "regular" gun violence? While six massacres and thirty-nine dead innocents in four weeks is deplorable, those numbers don't begin to approach the everyday toll of criminal and gang-related gunplay in America's urban areas. Indeed, a *Chicago Tribune* columnist [recently complained](#) that the "outcry over recent violence in Atlanta, Colorado and California" ignores the incessant gun violence that plagues her community:

But 15 people were shot at a party in Chicago's Park Manor neighborhood on March 14 (two days before the Atlanta-area shootings) and eight people were shot outside a Wrightwood neighborhood storefront on March 26 (four days after the Boulder shooting and five days before the Orange shooting)...What does it say that the violence here is so rarely included in larger discussions — in the media, among politicians — about mass shootings and the trauma they inflict on our nation?

For more about that, check out "[The Usual Victims](#)." Work your way through some of the related posts. Incredible!

No, we're not suggesting that gun laws are useless. Even an r of $-.20$ (that's the raw relationship between gun law strength and gun homicides) is *something*. So tinker with laws and regulations all you want. To make a real impact, though, we must look to the

fundamentals. As our [Neighborhoods](#) essays repeatedly point out – and as the data clearly suggests – economic deprivation is deeply linked to the violence that besets many American neighborhoods. For our most recent essay on point, check out “[Fix Those Neighborhoods!](#)” And while you’re at it, don’t forget to read “[Memo to Joe Biden](#),” recently published in John Jay’s *[The Crime Report](#)*.

Reducing the toll from gun violence, whatever its form, calls for a return to the fundamentals. What is a “society” all about? How can we strengthen the bonds between humans regardless of their income, social standing, place of residence, ethnicity, or skin color? How can we place America’s downtrodden places on the path to prosperity? We don’t have any quick answers, but that “[Marshall Plan](#)” we so frequently peddle could be a good start.

Posted 8/12/19

GOING BALLISTIC

Stop with the tangential! Gun lethality, first and foremost, is about the projectile

For Police Issues by Julius (Jay) Wachtel. Many years ago, while working as an ATF agent in Phoenix, I became acquainted with a physician whose name came up during one of my investigations. Dr. John, an avid hunter and target shooter, was unmoved when I explained that a man with whom he traded guns was an unlicensed dealer, and that local police had been seizing guns that went through him from thugs on the street.

[That's how most trafficking casework begins.](#) Agents follow the paper trail from a gun's manufacturer to its initial retailer, then "hit the streets" to find out how it wound up in the wrong hands. Illegal "street dealers" often get guns one at a time from individuals such as Dr. John. Some deploy "straw buyers" to buy them in stores. Corrupt licensees are often in the mix, falsifying records and supplying firearms in quantity "out the back door."

Best I knew Dr. John had committed no crime. He was cordial and helpful and we eventually got to know one another quite well. Possibly too well. On my final visit I knocked on the door of his home. Dr. John greeted me warmly. Then with a flourish he pointed to the floor. Somewhere below, he proudly announced, lay the pistol that Big Brother wouldn't get when they came for his guns.

I, too, had once enjoyed firing guns. Proficiency with a firearm, especially a powerful semi-automatic, offers many personal rewards, from the tangible pleasure of operating an intricate gadget to the thrills of accurately striking targets at range. It may be pop psychology, but some also seem to find in guns a sense of power and autonomy that is otherwise lacking.

Perhaps all the above applied to Dr. John, perhaps not. Still, we both knew that whether he really buried a gun wasn't the point. His diatribe about confiscation was meant to signal his commitment to that particular ideological space where Government can't be trusted and it's ultimately everyone for themselves.

Dr. John's point of view wasn't uncommon in Arizona nor in Montana, where I was later posted. Yet while neither I nor my colleagues considered rugged individualism inherently dangerous, extremist baggage occasionally made threat assessments tricky.

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How should one deal with the eccentric, reportedly unstable loners who hole up in remote mountain cabins? (One turned out to be the Unabomber.)

Yet when it comes to guns, commercialism confounds things. My first trial in Phoenix involved an unlicensed older gentleman who bought handguns in quantity from a local retailer, then resold them for a tidy profit at gun shows, no paperwork or ID needed. In his opinion, that's how the good Lord decreed guns ought to be dispensed, and if some wound up with criminals, as a police officer testified, that was simply a cost of liberty.

I was pleased that jurors ultimately found the man guilty. It didn't happen quickly, as several were conflicted about pinning a felony on a seemingly well-intended entrepreneur.

Out-and-out greed by commercial gun stores was the subtext for my final years with ATF, when I supervised a trafficking squad in Los Angeles. Methodically tracing guns recovered by police led us to an array of licensed dealers who sold guns under-the-table to street marketers. [My published research paper](#) discussed the appalling contribution of such practices to street crime. One instance, the murder of an LAPD officer, stuck with me through the years. An affecting example of how making a buck can lead so-called "businesspersons" to make terrible decisions, it eventually inspired a screenplay. Alas, the lack of a happy ending probably dooms it in Hollywood-land.

Guns aren't only about street crime. [Waves of mass shootings](#), most recently in [Dayton](#) and [El Paso](#), have renewed attention on assault weapons. These ballistically-formidable darlings of the gun culture fire projectiles that easily penetrate so-called "[bulletproof](#)" vests. When their bullets pierce flesh they create [massive wound cavities](#), shattering blood vessels and pulverizing nearby organs, with predictable consequences. (Vincent Di Maio's "[Gunshot Wounds](#)" is the standard work on the subject.)

[According to the FBI](#), 510 police officers were feloniously murdered during the past decade. Gunfire claimed 472 officer lives, including 336 by handgun and 108 by rifle. Two rifle calibers characteristic of assault-style weapons, .223/5.56 and 7.62, were responsible for sixty-five deaths. Twenty-one officers were killed by rounds that penetrated their body armor; all but one of these fatalities was caused by a rifle.

When it comes to what's available to the hateful, we're talking lethality, on steroids. There's a good reason why police have increasingly turned to armored cars.

But wait: haven't many states banned assault weapons? Yes, but. Their go-by, [the lapsed 1994 Federal ban](#), limited magazines to ten rounds and prohibited external

baubles such as handgrips. Yet it was silent about what really drives lethality – ballistics. Every state that's dared to institute a "ban" has followed suit.

Why?

For a simple reason. Focusing on ballistics would effectively doom the assault-style pistols and rifles that enthusiasts cherish. That would drive the NRA berserk and, not incidentally, threaten the survival of the firearms industry, whose profits depend on cranking out ever-more-lethal hardware. Instead, lawmakers boast about regulating peripheral aspects such as magazine capacity, [bump stocks](#) and the like. These "controls" are ridiculously easy to circumvent. Most recently, [authorities breathlessly announced](#) that Connor Betts, who perpetrated the [Dayton](#) massacre, bought a readily-available "shoulder brace" to help steady the so-called .223 "pistol" he legally purchased, thus transforming it into an illegal short-barreled rifle. And consider the December 2015 [San Bernardino massacre](#) in supposedly gun-stern California, where a married couple murdered fourteen and wounded twenty with a pair of state-legal AR-15 clones, both modified to increase ammunition capacity, a simple process that's clearly described online.

In any event, whether high-powered weapons are short or long, or have bump stocks or extended magazines, their killing power centers on *ballistics*. That's clearly how the rest of the civilized world perceives it. In 1988, one year after an angry [Hungerford](#) man used a handgun and two rifles to gun down sixteen persons, Britain banned all semi-automatic rifles beyond .22 rimfire. And despite its vibrant gun culture, New Zealand is presently buying back semi-auto rifles, which were largely banned after this year's murderous rampage in [Christchurch](#).

But in our polarized land we prefer to make-believe. Consider, for example, the drive to expand the use of ["red flag" laws](#), which empower judges to order gun seizures from the allegedly violence-prone. While there's no question that dangerous characters shouldn't have guns, liberty interests and practical issues unavoidably constrain the laws' reach. While occasionally useful, they are certainly no answer to the gun massacres that bedevil society. Considering that many perpetrators obtain their guns legally, and that guns are readily available through the unofficial marketplace, neither are background checks.

How to make a difference? We could devise [a scale that emphasizes what really counts](#). Points (demerits) would be assessed for the factor that most directly affects lethality – ballistics. Secondary issues such as ammunition capacity, cyclic rate and accuracy at range could also be considered. Guns with high scores would be banned outright, while others might be subject to a range of controls. Of course, no system is

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perfect or immune to manipulation. Americans would have to set aside selfish preoccupations and cherished beliefs for the common good. Alas, given our tolerance for mass slaughter, the prognosis is not good.

Posted 4/1/25

GUN CONTROL? WHAT'S *THAT*?

*Ideological quarrels beset gun laws.
And gun law-making. And gun law-enforcing.*



For Police Issues by Julius (Jay) Wachtel. Yes, that's a judge. And not just any jurist. Judge Lawrence VanDyke sits on the august [Ninth Circuit Court of Appeals](#). Based in San Francisco, it's the nation's largest Federal appellate court, with twenty-nine judges covering nine Western states, Guam, Hawaii and the Northern Mariana Islands.

Yes, that's a pistol in his hands. Not just *any* pistol. It's the judge's very own [Sig P-320 Compact](#). And he added a feature of which he's very proud. He talks about it on his very own [YouTube video](#):

...My own self-defense handgun...another P-320...has a red-dot object precisely because it makes the firearm better for its intended purpose; that is, self-defense. It makes it more accurate, more crispy, and shoot more quickly.



Check out this picture. Judge VanDyke is gesturing to a “[red dot sight](#).” Installed in front of the regular rear sight, the red dot version features an aiming screen with a floating red dot that falls precisely on the spot where a gunshot would strike. (No beam gets projected – everything happens within the sight.) Here, the judge uses the gadget to exemplify an accessory that, depending on a gun user's skill and proclivities, can either help or hurt:

Now, in that sense, this red-dot object is just like this magazine [gestures to a high-capacity pistol magazine]. It would make the firearm more dangerous when

it's misused, but it also makes the firearm work better for its intended purpose when it's used properly...

At the time, Judge VanDyke was part of an *en banc* panel. Eleven of the Circuit's twenty-nine justices had been assigned to review California's appeal of a Federal District Court decision that declared the state's ban on high-capacity ammunition magazines unconstitutional ([*Virginia Duncan, et. al. v. Rob Bonta*](#), no. 23-55805.) Judge VanDyke, who happened to agree with the ruling, knew that his philosophical leanings inevitably consigned him to the losing team. Still, he took the perhaps unprecedented step of starring in that video to bolster his dissent.

Alas, it failed to impress his colleagues. And also clearly irritated a few. Here's a slice of Judge Susan Graber's reaction:

Judge VanDyke himself appears in the recorded presentation making factual assertions about how guns work and providing physical demonstrations to support his assertions. By doing so, Judge VanDyke casts himself in the role of an expert witness, speaking to the type of "technical" and "specialized" issues that are reserved for witnesses properly "qualified as an expert."

On March 20, 2025, [the panel ruled 7-4](#), with Judge VanDyke in the minority, that California's prohibition of ammunition magazines that can hold more than ten rounds, which had been in effect since 2017, was indeed consistent with the Second Amendment. According to Judge Graber, who wrote the majority opinion, "large-capacity magazines are neither 'arms' nor protected accessories." And even if they were, California's ban comported with the Supreme Court's [Bruen](#) decision, as it "falls within the Nation's tradition of protecting innocent persons by prohibiting especially dangerous uses of weapons *and by regulating components necessary to the firing of a firearm*" (emphasis ours.)

Judge Graber's support of the notion that States can restrict so-called "necessary" gun components really set off Judge VanDyke. After all, if California can prohibit certain magazines, is *anything* off the table?

Under the majority's rationale, any magazine that holds more than one round is not "necessary" for the function of the weapon. So presumably California could also ban magazines holding five rounds. Maybe even two...under that logic, basically every part of a firearm is an "optional component" because each could be replaced with a less effective (aka, less "dangerous") version of that part and the firearm would still "operate" in some sense.

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Worse still, might gun controllers go after his beloved red dot sights? After all, sights *are* “necessary.”

Full stop. Scroll through the opinion. Including arguments pro- and con-, it runs a stunning *one-hundred-forty-seven pages*. (Judge’s clerks must have been really busy!) But relax. We don’t intend to opine on what’s a “necessary” gun component, nor whether it really matters. Instead, let’s use the Court’s [official seniority list](#) to see how the judges’ views aligned politically:

	Justice	Appointed by
Concur	Mary Murguia	Obama
	Sidney Thomas	Clinton
	Susan Graber	Clinton
	Kim Wardlaw	Clinton
	Richard Paez	Clinton
	Marsha Berzon	Clinton
	Andrew Hurwitz	Obama
Dissent	Patrick Bumatay	Trump
	Sandra Ikuta	Bush
	Ryan Nelson	Trump
	Lawrence VanDyke	Trump

Had the Ninth Circuit’s finest set out to craft deeply-considered legal analyses, irrespective of whose ox might be gored? We’d like to think so, but the table literally screams...NOT!

Was all that profound (and ostensibly impartial) opinionating a ruse?

This wasn’t the panel’s first time on the issue. [San Diego U.S. District Judge Roger Benitez](#), a Bush appointee with a reputation as a [fierce pro-gun advocate](#), had twice overturned California’s ban, [in 2019 and 2023](#). His first foray was stayed by a nearly-identical Circuit Court panel. (Its only difference was that [Obama appointee Paul J. Watford](#), who since retired, then held the spot that his replacement, Clinton nominee Kim Wardlaw, now holds.) And yes, the vote had also been 7-4, with “Blues” in the majority.



	<u>Begin</u>		<u>2020</u>
	3.2	Thomas	3.0
	2.0	Alito	2.2
	1.1	Gorsuch	1.1
	1.0	Barrett	1.0
	0.6	Kavanaugh	0.5
	1.4	Roberts	0.5
	-1.4	Kagan	-1.5
	-1.4	Breyer	-1.9
	-1.7	Sotomayor	-4.0

It's no secret that judicial opinions align with their authors' sociopolitical leanings across all Court levels. Three years ago, in "[Judicial Detachment: Myth or Reality](#)," we used [M-Q scores](#) to assess the ideological preferences of...the Supremes! Over the long term, Justices Thomas and Alito were consistently the "reddest." Their preferences apparently still hold true. In a recent decision ([Bondi v. Vanderstock](#), no. 23-852, decided 3/26/25) the Supreme Court ruled, 7-2, that parts kits used to assemble so-called "ghost guns" are

themselves "firearms," thus subject to all the regulatory provisions of the Gun Control Act.

Who dissented? Justices Thomas and Alito.

Despite *Vanderstock's* split verdict, the decision came as a relief to the anti-gun crowd. As of late, the high court hadn't seemed favorably disposed to gun control. In June, 2022 their highly consequential [Bruen](#) decision found New York State's requirement that CCW applicants show "a special need for self-protection" inconsistent with the "Nation's historical tradition of firearm regulation" and unsupported by the "plain text" of the Second Amendment. Not-so-incidentally, the Court's 9-3 split aligned perfectly with the Justices' M-Q scores. Justice Thomas, the "reddest" member of the Court, delivered the majority opinion, while each dissenter – Justices Kagan, Breyer and Sotomayor – sat at the opposite, "blue" extreme.

Justice Breyer retired. His replacement, Justice Ketanji Brown Jackson, has apparently filled his ideological space as well. According to [a recent academic analysis](#), her votes during the Court's 2023 term consistently aligned with those of Justice Breyer's old "pals," Kagan and Sotomayor.

Gun-related struggles also pervade the Circuits. Consider the run-up to the Supreme Court's parts kits decision. [Texas Federal District Judge Reed O'Connor](#), a Bush appointee, is said to be "a 'go-to' favorite for conservative lawyers." In November 2022 [he ruled in a lawsuit filed by pro-gunners](#) that ATF's classification of gun part kits as "firearms" conflicted with the Second Amendment. And the [reportedly "hard-right"](#) Fifth Circuit Court of Appeals [agreed](#). Often sought out by gun control opponents, the Fifth has ruled against prohibitions on "bump stocks" and on gun possession by drug users and persons under domestic violence restraining orders. [Its most recent thumbs-down](#) was on the Federal laws that prohibit licensed dealers from selling handguns to persons under 21. In the words of Circuit Judge Edith H. Jones, "the text

of the Second Amendment includes eighteen-to-twenty-year-old individuals among 'the people' whose right to keep and bear arms is protected.”

Shift to the Third Circuit. In 1995 Pennsylvania resident Bryan Range [pled guilty to “making a false statement to obtain food stamps.”](#) He drew probation. Nearly thirty years later Mr. Range sought to buy a gun. However, Federal law ([18 USC 922\[g\]\[1\]](#)) precludes anyone who has been convicted of a crime “punishable by imprisonment for a term exceeding one year” from having guns. It applies to Mr. Range, as he could have drawn up to five years. But his offense was decidedly non-violent. Citing [Bruen](#), on December 23, 2024 the Third Circuit ruled 13-2, en banc, that the Federal prohibition did not extend to such crimes:

Because Range and his proposed conduct are protected by the Second Amendment, we now ask whether the Government can strip him of his right to keep and bear arms. To answer that question, we must determine whether the Government has shown that applying § 922(g)(1) to Range would be “consistent with the Nation’s historical tradition of firearm regulation.” *Id.* at 24. We hold that the Government has not carried its burden.

How will ordinary folks know whether they’re covered by this exception? That’s what the dissenters want to know. How might Federal gun law enforcement be affected in the Circuit’s territory (Delaware, New Jersey, Pennsylvania, and the U.S. Virgin Islands)? That’s what *we’d* like to know.

Gun-friendly Attorneys General have also leaped into the fray. Most recently, the [11th. Circuit ruled](#) that Florida law which prohibits persons under 21 from buying long guns – it was enacted after the [Marjorie Stoneman High School massacre](#) – is Constitutional. (Its decision was 8-4; each dissenter is a Trump appointee.) Even so, Florida Attorney General James Uthmeier, a notable “Red,” [warned that his office won’t defend the law](#) should the thus-far-unsuccessful plaintiffs (the NRA) appeal to the Supremes: “Men and women old enough to fight and die for our country should be able to purchase firearms to defend themselves and their families.”

Concerns about the trampling of citizen’s gun rights aren’t only being expressed by *State* lawyers. Attorney General Pamela Bondi just announced that the Department of Justice has instituted a “patterns or practice” investigation [of the Los Angeles County Sheriff’s Department](#). DOJ’s Civil Rights Division will probe whether the LASD has been “depriving ordinary, law-abiding Californians of their Second Amendment rights” by imposing unseemly delays on the issuance of CCW permits. According to DOJ, this

problem seems commonplace in the (very “blue”) Golden State, where cities commonly impose “expensive fees and lengthy wait times” well beyond what’s called for.



Like worries apparently extend to the White House. On February 27, 2025 President Trump issued Presidential Order “[Protecting Second Amendment Rights](#).” It directs DOJ to review Federal laws and rules enacted between 2021-2025 that “may have impinged on the Second Amendment rights of law-abiding citizens.” Among those to be examined are ATF regulations that tightened dealer oversight, banned pistol braces and addressed “ghost guns.” Also in the bull’s-eye is the Federal “[Bipartisan Safer Communities Act](#),” a 2022 law that among (many) other things, did away with loopholes that allowed some gun buyers bypass background checks.

ATF, the nation’s key gun law enforcement agency (and your writer’s past employer) is caught in a maelstrom. As he bemoaned budget cuts under the “blues,” Steven Dettelbach, the beset agency’s last regular Director, [predicted that ATF’s finances could only get worse](#). He resigned in mid-January. Mr. Dettelbach hardly had a choice, as incoming President Trump had referred to him as an “anti-gun fanatic” at an NRA rally. Most recently, the Administration’s announcement of a plan to merge ATF with DEA has drawn great concern. Here’s what the [Giffords](#) gun control group [had to say](#):

Cutting resources from the ATF would quite literally be defunding the police. The agency's mission is to stop violent gun crime and protect public safety. Merging it with another agency would reduce staffing and resources, weakening efforts to stop gun traffickers, straw purchasers, and rogue gun dealers.

Kash Patel, the outsider whom President Trump tapped to temporarily lead the FBI, was also tasked with overseeing ATF. [But he seems “missing in action.”](#) According to the *Washington Post*, his absence “is reflective of the uncertainty hovering over ATF, a relatively small law enforcement entity that has bubbled into a political juggernaut, touted by Democrats as critical to combating gun violence and accused by Republicans of trying to overregulate firearms.”

As for your writer, he’s still drawing his ATF pension. Which he naturally helped fund. As of yet, it’s unaffected.

Posted 11/9/08

GUN CONTROL IS DEAD

By Julius Wachtel, (c) 2010

One hates to say so, but perhaps the silliest reaction to the outcome of the Presidential election came from the gun control community. In a [breathless communiqué](#), the Brady Campaign to Prevent Gun Violence characterized President-elect Obama's [slim margin](#) in the popular vote (52.5 to 46.2 percent for McCain, with the balance for third party candidates) as a stunning defeat for the NRA's forces of evil. That view was quickly endorsed by the peculiarly named "[Freedom States Alliance](#)," which boasted that voters demanding "sensible solutions" had "shot down" the NRA's "radical agenda."

Sure, many of the NRA's favorite candidates lost. Anyone old enough to vote knows that gun crazies favor candidates who vehemently oppose gun regulation, and these often turn out to be Republicans. But let's face it: guns had nothing to do with an election whose outcome was preordained by the financial meltdown.

When an economic disaster the likes of which we haven't seen since the Great Depression yields such a pitifully slim victory, it's powerful evidence that the electorate remains deeply conservative. Don't buy it? Go to the New York Times' [electoral map](#) and slide the pointer from '92 to '04. Notice how red things were getting. Four years later, in that bastion of liberalism known as California, the same voters who helped shift things blue also amended their State Constitution to prohibit gay marriage.

Really, folks, if it wasn't for a rotten economy we'd be setting up an oxygen tent in the White House and practicing how to say "gosh darn it!"

Still not convinced? According to the Gallup poll a majority of Americans are satisfied with [gun laws](#) as they are, oppose making handguns illegal, and feel that guns make homes safer. They also support [restricting abortion](#), "overwhelmingly oppose efforts to make it easier for [illegal immigrants](#) to become citizens" and are against making marriage between [same-sex partners](#) legal. Asked to name [ten priorities](#), they rank Iraq, terrorism and the economy as the top three. Immigration comes in fifth; morality, eighth. Gun violence may be of concern to the good burghers of [Pittsburgh](#), [Chicago and Cincinnati](#), but nationally it's not even on the charts.

If the silliest response to the election was the anti-gunners', the second most exaggerated came from -- you guessed it -- the dark side. Only weeks after the Supreme Court upheld an individual right to possess firearms the [NRA was already pouting](#) about the President-elect's alleged intentions to "ban guns and drive law-abiding firearm manufacturers and dealers out of business."

Just what *are* his heart-stopping [recommendations](#)?

- Tiahrt Amendment. Imposed in 2003 to put an end to lawsuits against the gun industry, Tiahrt denies plaintiffs the ATF records they need to prove that manufacturers and distributors have been recklessly marketing their wares. (Tiahrt was followed in 2005 by the "Protection of Lawful Commerce in Firearms Act," which prohibits lawsuits against gun makers and distributors for gun misuse.) To make sure that it's not circumvented, Tiahrt also keeps police from obtaining information about gun sources outside their geographical area, thus shielding traffickers from detection and prosecution.
- Gun-show loophole. Persons who buy firearms from licensed dealers at gun shows must submit to a criminal records check. Those who buy them from private parties need not. Closing the loophole would make all buyers subject to screening.

How this would "ban guns" is hard to understand. Other than prohibiting residents of one State from selling guns to residents of another, the Federal government doesn't regulate private gun transactions. In most States (but not California, where private gun sales are illegal) one can go to a gun show and buy as many guns as they wish from private parties, with no need to present any identification whatsoever.

Advocates claim that closing the "loophole" would keep felons, juveniles and adjudicated mental defectives from acquiring guns. Sadly, it would probably have little effect, as all that a prohibited buyer would have to do is bring along a qualified friend. Street gun peddlers love to buy from private sellers at gun shows because they can remain anonymous and the weapons can't be traced. These far more significant "loopholes" wouldn't be addressed by forcing everyone to submit to records checks, as these must by law be purged once a sale is completed.

- Assault weapons ban. President-elect Obama's final recommendation would reinstate the ban that expired in 2004. Signed into law ten years earlier, it prohibited the sale of enumerated semi-automatic firearms such as the Colt AR-

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15, as well as other weapons with two or more of certain features, such as a pistol grip, a bayonet mount and a flash suppressor. External magazines with a capacity greater than ten rounds were also outlawed.

So what happened? Manufacturers yawned. Colt stripped the AR-15 of its flash suppressor, renamed it the “Sporter” and went right back to business. Characteristics that really *do* affect lethality -- caliber, muzzle velocity, cyclic rate, accuracy at range -- were never addressed by the ban. Reinstating it hardly seems worth the bother.

In this badly divided nation firearms have been a surrogate in a culture war that’s replayed every four years. When President-elect Obama criticized our tendency to “cling” to guns and religion he got it perfectly right. It was an amazingly insightful and honest comment that he will never repeat in public, and which he will never, ever try to express through meaningful gun control legislation.

Message to the NRA: You’ve won. Don’t worry -- be happy!

For more on assault weapons click [here](#). For more about records checks and private gun sales click [here](#).

Posted 3/28/10

GUN CRAZY

Welcome to Starbucks. Would you like a box of nine mm's with your latte?

By Julius Wachtel, (c) 2010

Here's a happy thought for criminal justice students who want to be cops. Criminals with guns won't be their biggest worry. Considering our country's increasingly permissive approach to carrying firearms it won't be long before every time that citizens come into conflict at least one will be armed.

Concealed carry was a privilege reserved for cops and a handful of other professionals, like couriers, who could demonstrate a pressing need. No longer. Thanks to politicians eager to curry favor with the NRA (or avoid becoming its target) packing heat has become an inalienable right. At present [forty states](#) allow citizens to carry concealed weapons, with a full thirty-six being "shall issue," meaning that all who meet minimum standards must be granted a CCW permit without having to demonstrate any need whatsoever.

[Arizona](#), for example, requires that applicants be residents, 21 or older, not felons or under indictment for a felony, not mentally ill, and complete a gun safety training program. (All but the last are what Federal law requires for buying handguns.) [A typical gun safety course](#) is eight hours long and costs \$79. Students must bring or rent a weapon, a holster and thirty rounds of ammunition. To make things convenient they complete their state concealed-carry application and get fingerprinted right on the spot. Once five years pass [a simple renewal form](#) is on the web.

Not easy enough? Then move to [Vermont or Alaska](#), which don't require a CCW permit. That's right: once you buy that handgun, pull out that shirttail and you're good to go! Last week the Arizona Senate preliminarily [approved a measure](#) that would make it the third state to allow concealed carry without a permit. Considering the tenor of the times the law's prospects seem bright.

It's a deeply guarded secret, but packing heat is less fun than it seems. First there's the matter of a heavy lump on one's side. Secondly – and this is the big one for poseurs – no one's going to be awed by what they can't see.

So how better to impress than to carry openly? That's a far more sensitive topic than one might imagine. Knowing that the specter of citizens openly packing might be unsettling, [mainstream gun organizations](#) have done little to champion concealed carry's lesser cousin. The gun lobby's fringes, though, haven't been nearly as reticent. Operating under the umbrella of groups such as [Open Carry](#), armed citizens have staged numerous armed "show and pose" visits. Their destinations have included coffee houses, restaurants and at least [one house of worship](#), in Louisville, whose pastor is one of the movement's most, ahem, *spirited* advocates.

Everyone knows that California has some of the toughest gun laws in the nation. There's a ten-day waiting period and buyers are limited to one handgun a month. Localities have broad discretion in granting permits for concealed carry, and few are issued. But as long as handguns are unloaded, carrying openly is generally permitted.

That's more or less the rule in most States. Yet, except when they're on [field trips to Starbucks](#) (Peet's and California Pizza Kitchen have already said "no") few open-carry advocates openly carry. Wearing guns is a pain. Doing so openly exposes them to ridicule, frightens children and brings unwelcome attention from the police.

All the "defensive" hoopla aside, the chances that someone may actually *need* a gun are infinitesimally small. During his law enforcement career your blogger pulled his sidearm exactly once while off-duty. Driving home after work, he spotted hoodlums grappling with a youth, and when they forced him into the back of a car he stepped in and detained the whole bunch for the cops. Even then it wasn't your writer who needed saving – it was a dope dealer who had apparently failed to pay for his goods in the normal way, and was getting set to pay for them in another.

Pulling a gun is dangerous. It was dark and Feds don't wear uniforms, so when police arrived your writer set down his pistol and raised his arms just like everyone else. Skittish officers have occasionally shot unarmed citizens ([as happened in L.A. last week](#)) and, during confusing plainclothes encounters, each other ([as has repeatedly occurred in New York City](#).) Lacking experience, training and backup amateur law enforcers are at grave risk. In November 2005 Brendan McKown, 38, a CCW permit holder tried to draw down on the [Tacoma Mall](#) shooter. McKown didn't get off a round; hit multiple times he wound up a paraplegic.

Ordinary life is full of problems, and when guns are readily available the consequences can be tragic. For every bonafide instance of defensive use there are countless examples of angry, depressed and mentally ill persons who used a weapon to settle grievances, both real and imagined:

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- [A husband facing financial ruin](#) shot and killed his wife, mother-in-law and three sons, ages 19, 12 and 7, then committed suicide.
- [A mentally disturbed young man](#) armed himself with an assault rifle and killed three Philadelphia police officers and wounded a fourth as they responded to his mother's call for assistance.
- In yet another explosion of workplace violence, [a college professor denied tenure](#) gunned down six colleagues, killing three.
- Police suicides are all too frequent. In a recent case [a SWAT sergeant despondent over problems at work](#) killed himself with a shotgun.

In our permissive, gun-friendly atmosphere prevention is well-nigh impossible. And checking the criminal records of concealed-carry applicants is of little help. [Richard Poplawski](#), the twenty-two year old youth who gunned down the Philadelphia officers, had a CCW permit. A [study](#) by the Violence Policy Center revealed that during May 2007-May 2009 concealed-carry permittees feloniously shot and killed 42 private citizens and seven police officers, including the three mentioned above (for a current count, click [here](#).) Official reports confirm that the shooters in the [Virginia Tech](#) and [Northern Illinois University](#) massacres were hopelessly mentally ill, yet both passed checks and purchased their guns from licensed dealers. As for that demented college professor, she got the gun from her husband.

No pun intended, but this is a no-brainer. Encouraging fallible humans to carry guns wherever they go is an invitation to disaster. (If you still don't believe it, click [here](#).)

It really is that simple.

Posted 10/11/09

GUN SHOW AND TELL

New York City sent private eyes to gun shows. What did they find?

By Julius Wachtel, (c) 2010

If you're New York City mayor Michael Bloomberg, what's not to like? Although the Big Apple has more than twice L.A.'s population, [its homicide rate](#) is thirty-seven percent lower. That's not a fluke: nearly [ten years ago](#) the difference was forty-one percent. And five years before that, in crazy, crime-ridden [1995](#) when 1,177 persons were murdered in NYC and 849 in Los Angeles, New York still had a considerable thirty-four percent advantage.

Why the difference? Hizzoner, who happens to co-chair [Mayors Against Illegal Guns](#), would tell you that his streets are safer because they have far fewer handguns. [New York State law](#) (Penal Code secs. 265.01, 265.20, 400 and 400.1) prohibits as much as *storing* a pistol or revolver at one's home without a permit. Licensing is administered by cities and counties, which have broad discretion to decide whether Joe and Jane can have that .44 magnum. [New York City](#) vets applicants through an elaborate process that includes an extensive background check. Those who want to keep a handgun at a place of business or, God forbid, carry one on the street must also demonstrate a compelling need, in writing. Few such requests are granted.

Differences in laws among the States foster a black market where guns flow from so-called "weak-law" States like Georgia to "strong-law" States like New York. In 2007 police seized 10,444 firearms in [New York State](#). Of those that could be traced (about half), *seventy-one percent* had been sold at retail outside the State. For those seized in the [NYC metro area](#) the proportion of out-of-State guns was *eighty-six percent*. Contrast that with California, where any resident with a clean record can buy a handgun without a permit. In 2008 [ATF traced](#) 30,641 guns recovered in the Golden State. Of those that could be traced (again, about half) seventy-three percent were originally sold within the State.

New York City's guns came from every State of the Union. Four-hundred twenty originated in New York. The top six external contributors were Virginia (358), Pennsylvania (305), North Carolina (290), and Alabama and Georgia (tied at 243 each.) [A recent study](#) identified all but Pennsylvania as a top ten national gun source. Pennsylvania probably didn't make the list because it's one of the few States that

requires a criminal record check for all buyers at gun shows, even if the seller is a private party.

[Interstate traffickers](#) acquire guns in several ways. One method is to hire residents of weak-law States to act as [straw buyers](#). In [2006](#) Mayor Bloomberg sent private undercover agents to sixty gun stores in Georgia, Ohio, Pennsylvania, South Carolina and Virginia. Fifteen dealers were caught on camera selling guns to the male member of the pair while the female member, who openly posed as a straw buyer, did the paperwork. Bloomberg sued. [Several gun stores eventually agreed](#) to monitor purchases with video cameras and train their staff to recognize straw purchase. (Authorities didn't take kindly to the gambit. Virginia, New York City's biggest out-of-State gun source, actually [enacted a law](#) that made stings by non-law enforcement personnel illegal.)

Bloomberg recently turned his attention to another favored source: gun shows. [Between May and August 2009](#) he dispatched undercover agents to gun shows in Nevada, Ohio and Tennessee, which don't require criminal record checks for gun sales by private sellers. [What they discovered](#) was no surprise. [Nineteen of thirty](#) private sellers sold guns to undercovers who said they would probably fail a criminal record check. One seller replied "I don't care." Another, "I wouldn't pass either, buddy."

Actually, [many unlicensed sellers](#) seemed to be gun dealers in all but name. Several carried large inventories, said they frequented shows and bragged about their sales. Pretending to be hobbyists let them sell guns without running checks, thus making them an attractive source for criminals and gun traffickers.

Undercover agents also approached licensed dealers to see if they would sell guns to straw buyers. Sixteen of seventeen did. [An example shown on video](#) depicts a male investigator picking out a gun. He introduces a female companion as a "friend" there to do the paperwork. Without batting an eye the salesman has the woman fill out the forms.

Shady practices were commonplace thirty years ago when your blogger was an ATF agent in Arizona. On one occasion I traced guns recovered by Phoenix PD to an unlicensed peddler who bought cheap new handguns in quantity at local dealers, then promptly resold them at gun shows, collecting a premium because no paperwork was required. I arrested the man for unlicensed dealing; he was later tried and convicted.

Alas, this prosecution was unusual. ATF has always discouraged gun show investigations, forbidding agents from as much as entering a show except to work a specific, pre-identified target. Bloomberg, [who would do away with such restrictions](#),

wants ATF to greatly ramp up its enforcement efforts at gun shows. But that's unrealistic. Shows are a locus for so much illicit activity that policing them with any vigor would quickly bring the Government into conflict with the gun lobby, whose interests are best served by denying that a problem exists. Given the political realities it's a lot safer to look the other way.

Bloomberg also recommends that criminal records be checked of all buyers at gun shows, not just those who purchase guns from a licensed dealer. As was mentioned, that's the practice in Pennsylvania. It's also the law in California, where all private party sales, whether in a gun show or elsewhere, must go through a licensed dealer. Expanding the rule nationwide would make it far more cumbersome for traffickers to acquire firearms in quantity. Still, regulating guns is such a hot-button topic that licensed dealers have kept mum about plugging the private party loophole even as unlicensed peddlers drain away their business.

From his base in Gotham, Mayor Bloomberg's taken on one of the core cultural artifacts of the far right. What happens next will be interesting to see.

Posted 3/24/13, revised 6/16/14

HALF-HEARTED MEASURES ARE NO SOLUTION

Legislative proposals ignore fundamental issues

By Julius (Jay) Wachtel. Prompted by a series of gun massacres, most recently of schoolchildren, the Senate swung into action. Bills were proposed to expand background checks to all gun transfers (not just those at a dealer), to make it a felony to buy firearms from a licensed dealer on behalf of someone else, and to buy guns from a non-licensee on behalf of someone who is prohibited from having guns.

Alas, not a single Federal legislative proposal made it out of committee. Still, there has been some good news. On June 16, 2014 the Supreme Court held (5-4) that when someone certifies on the Federal purchase form that they are buying a gun for themselves, when in fact they're acting as a "straw buyer" for someone else, they can be prosecuted for lying, even if the intended recipient can legally buy guns ([Abramski v. U.S.](#)) This decision resolves a long-standing conflict between Circuits that hampered prosecutions of straw buyers.

Of course, this ruling does nothing to help detect straw purchases in the first place. That usually happens only after guns have been misused, recovered and traced. By then the damage has been done. There are very few real impediments against illicit purchase and resale. Federal law does not impose limits on purchase quantity or frequency. It is also mum about private sales. A few states have stepped forward. Years ago California limited handgun purchases by private parties from licensed dealers to one a month. Private gun transfers were also outlawed. Persons who want a gun for their own use must get one from a licensed dealer. Those who wish to sell a gun must process the transaction through a dealer. Unfortunately, California acted alone, and most other states and the Federal government continue to allow private parties to buy as many guns as they wish and to trade guns unhindered by record checks or paperwork.

Placing limits on gun purchases, outlawing private gun transactions and extending background checks are good ideas. But guns are so easy to get and pass on that such measures can only have limited effect. It's not just about keeping guns from criminals. For most of us the greatest threat is from someone, often an intimate, who might go berserk and decide to settle a grievance with violence.

Making matters worse, gun manufacturers have been churning out ever more lethal hardware. The .38 specials and .22 rifles of the 1950's have been supplanted by pistols

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and rifles with muzzle energies and velocities so extreme that they readily penetrate ballistic garments commonly worn by police. Meanwhile assault weapon laws and other half-hearted responses have focused on external characteristics such as handgrips and flash suppressors, or on minor impediments to rapid-fire capability such as limiting magazine capacities to ten rounds.

To address the threats posed by firearms trafficking and gun misuse we must regulate at the fundamentals. That means tightly controlling gun transfers and placing strict limits on weapon ballistics and rapid-fire capability. Of course, any substantial moves in these directions would face strong resistance from gun makers and the firearms lobby. That's why we've arrived at the point – unique in the industrialized world – where it seems that the only way to protect America's children is by arming their teachers. That's not the country most of us would wish for, but as increasingly lethal firearms continue to flood our communities, it's the one we'll inevitably get.

Posted 2/17/08

HILLARY: “I SHOT A DUCK”

By Julius Wachtel, (c) 2010

On Saturday, February 16, only two days after a psycho youth murdered five students at Northern Illinois University, Presidential wannabe Hillary Clinton responded to a question on the tragedy with a breezy comment about keeping guns from the mentally ill. Although that’s an objective that even the mighty N.R.A. endorses, our would-be prez quickly reassured her Wisconsin audience that she would never do anything to “infringe the right” of lawful gun owners; after all, she once [shot a duck!](#)

After the murder of thirty-two at Virginia Tech in April 2007, the Delaware State University shooting in September, the Cleveland high school shooting in October, and the Louisiana Tech, Oxnard high school and N.I.U. shootings this month, to say nothing of the countless killings that *didn’t* happen on school grounds, one would think that Hillary, Barack, John, the lot of ‘em would be eagerly proposing solutions for the problem of gun violence in the U.S.A.

Alas, our brave candidates’ silence on this pressing issue is so deafening that one could hear a firing pin drop. In the meantime, the crazies who encourage arming Americans to the teeth have been far less shy to press their case. Carrying a concealed weapon, a privilege once restricted to police, is now open to citizens in nearly every State. Applying usually calls for nothing more than submitting fingerprints, passing a computerized record check and completing a brief firearms proficiency course. Issuing a CCW permit is normally mandatory. Fortunately, nearly every State has either outlawed guns on campus or allowed schools to decide. One exception is Utah. [Its laws](#), which don’t prohibit carrying guns in educational institutions, have been interpreted to [pre-empt](#) local restrictions. So for those who feel the need to carry an Uzi under their graduation robes, it’s presently the only place to go.

But even that’s changing. Guns are coming to schools, and legally. Turning the meaning of events such as Virginia Tech and Northern Illinois on their head, legislators everywhere are rushing to reaffirm the rights of concealed-carry permit holders to pack guns anywhere they like. For example, in South Dakota, where it’s possible to secure a [temporary CCW permit](#) in five days, the House just passed a [measure](#) that enshrines the rights of students and faculty to carry guns on campus. Its sponsor, Representative Thomas Brunner, a proponent of the theory that “the only remedy for a bad guy with a

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gun is a good guy with a gun,” says that his daughter needs a pistol to protect herself during that lonely and treacherous half-mile walk from the parking lot to her dorm.

School administrators and police chiefs -- those who have to deal with the real world - are horrified. In Arizona, where another [take-a-gun-to-school measure](#) is under consideration, the president of the Board of Regents, a self-proclaimed supporter of the Second Amendment, said it all: “when you have 18- to 25-year-old kids with guns in their pockets, it's just a recipe for disaster.”

Well, what of it? Are “good guys with guns” more likely to help or hurt? [Garrett Evans](#), a student shot during the Virginia Tech massacre (his sister was killed) thinks that arming students is a “crazy” notion, that events happened so quickly that no one could have possibly intervened. At Northern Illinois University the shooting was also over in seconds, campus police reportedly arriving within two minutes. One can only imagine the confusion and carnage that would erupt should a bunch of startled CCW permit holders reach into their pockets, briefcases and purses and try to exchange fire with some lunatic in a crowded classroom. What police officer in their right mind would step into *that* scene?

It doesn't matter where one falls on the ideological spectrum, as at heart this isn't a political issue: it's a matter of sanity -- and we're not talking the shooter's. Unless our addled Presidential candidates wake up from their N.R.A.-induced comas and start speaking to the truth, guns on campus is a bizarre Ramboesque fantasy that's likely to come true.

Posted 2/28/24

HOUSTON, WE HAVE (ANOTHER) PROBLEM

Fueled by assault rifles, “senseless” murders plague the land



For Police Issues by Julius (Jay) Wachtel. As our more “senior” readers know, the “problem” we’re appropriating for our own, selfish purposes reared its ugly head fifty-four years ago. On April 14, 1970, [an American mission to the moon](#) was aborted mid-flight when an oxygen tank blew up. Happily, the orbiter landed safely (on Earth) and no one got hurt.

Like all such missions, Apollo 13 launched from Florida’s Cape Kennedy. It then came under the control of “Mission Control” at Johnson Space Center, a vast “\$1.5 billion complex” near downtown Houston. That’s Houston, Texas. Our government’s most sophisticated, science-based enterprise is based in a decidedly “Red” State. Texas also happens to be a “[Stand Your Ground](#)” State. Meaning, among other things, that it encourages private gun ownership. And, apparently, gun use. For example, its denizens are under no obligation to retreat before using force, including deadly force, in self-defense (Texas Penal Code [sec. 9.31e](#)).



Our focus here, though, isn’t on simple errors in judgment, no matter how tragic their consequences. After all, even the best-intentioned humans (and here we include most cops) occasionally fall prey to the chaos and uncertainty that suffuse everyday life. It’s about “senseless” behavior, meaning without any rational basis. And there are few better examples than what happened in Houston during the afternoon hours of Sunday, February 11. That’s when a local resident, 36-year old Genesse Ivonne Moreno, [burst into a church between services](#). Accompanied by her 7-year old son, Moreno was attired in a

trench coat and carried two rifles, a .22 caliber weapon and an AR-15. She quickly opened fire with the latter in a hallway. Two off-duty police officers working security promptly fired back, killing her. During the exchange Moreno's son was critically hurt, and a middle-aged parishioner sustained non-life threatening wounds to his leg. (Just whose bullets struck them is yet to be revealed.)

What drove Moreno to act as she did? Her rifle bore a "Palestine" sticker, and she had reportedly made "anti-Semitic" writings. But the church was a Christian congregation. Motives aside, what is known paints a highly disturbing picture of a highly disturbed soul. While Moreno identified as a woman, she had a substantial criminal record in Houston under a male alias. Here's a summary from our inquiry of the [Harris County Court](#):

ESCALANTE MORENO, JEFFREY					
Arrest Date	Agency	Charge	Fel/Misd	Disposition	Sentence
10/22/2005	Houston PD	Hit-run	M	Guilty	20 days
8/6/2009	Houston SO	Assault w/injury	F	Convicted M	180 days
3/8/2010	Houston SO	Forgery	F	Convicted M	2 days, fine
11/2/2010	Houston SO	Poss Marijuana	M	Guilty	30 days
12/4/2010	Houston SO	Evade arrest	M	Guilty	75 days
4/2/2022	Katy PD	Illegal wpn carry	M	Convicted	2 days

Moreno supposedly purchased the AR-15 in December 2023. How, and from whom, hasn't been revealed. She has no known felony convictions, which would have barred her from buying a gun from a dealer. Family members and police said that Moreno suffered from long-standing mental problems; police officers placed her under "emergency mental detention" in 2016. However, Texas doesn't have a "[Red Flag](#)" law, so there was no ready way to keep her from buying a gun in a store. Neither does it require background checks for gun transfers [between private parties](#). So Moreno could have easily acquired a firearm even if her mental problems were of record.

Moreno hasn't been the Lone Star State's only "senseless" killer. Consider the [May 6, 2023 massacre in Allen, a Dallas exurb](#). Attired in tactical gear and wearing an "RWDS" (Right-Wing Death Squad) patch on his chest, Mauricio Garcia, 36, jumped out of his car and began "indiscriminately" firing an AR-15 in the parking lot of a large mall. He then charged into a building and continued the fusillade. Garcia killed eight and



wounded seven before a security guard shot him dead.

Garcia (photo from OK.ru) brought along an arsenal. In addition to the AR-15 he carried two handguns on his person and had five more guns in his car. All were legally bought. Garcia, a security guard, had a clean criminal record. But there *was* a “glitch”. Garcia enlisted in the U.S. Army when he was eighteen. But only three months later concerns about his mental health and an “adjustment disorder” [led to his discharge](#). Unfortunately, the Army didn’t pass that on to the FBI, which runs the nation’s [“Insta-Check” gun purchase system](#). So he remained free to buy guns from retail dealers to his wicked heart’s delight.



We’re not done with Texas. Four days preceding Garcia’s foul deed a tactical unit comprised of Feds and State troopers [arrested Francisco Oropeza](#) in the small town of Cut and Shoot, about 40 miles north of Houston. Oropeza was on the run after murdering four adults and a 9-year old in the nearby town of Cleveland, where he lived, because they had the temerity to demand [that he stop shooting his AR-15](#) in his yard. One of his victims had just called 9-1-1 about his gunfire. And this wasn’t the first time.

Oropeza was an illegal immigrant with four prior deportations. That’s important to know because it [legally excluded him from having guns](#). Prosecutors are [seeking the death penalty](#). Sadly, that’s already been imposed.

“We can’t get inside his head. We just don’t have any clue as to why he did what he did.” [Joliet Police Chief Bill Evans’s comments](#) reflect the perplexing nature of the January 21, 2024 spree by our fourth killer, twenty-three year old Romeo Nance. He was ultimately cornered – and committed suicide – in Texas. But his appalling handiwork took place in Joliet, Illinois, the community where he grew up. [And its toll was grim](#). Nance murdered his mother, three sisters, a brother, and an uncle and aunt. While fleeing he also shot and killed a 28-year old pedestrian carrying groceries and wounded a middle-aged man whom he happened to encounter.



Nance’s explosive temper was well known to police, [who were frequently summoned to his residence](#). Leaving out numerous traffic infractions, here’s a summary of his adult

criminal record from the [Will County Court](#):

NANCE, ROMEO A.					
Crime Date	Agency	Charge	Fel/Misd	Disposition	Sentence
2/15/2023	Will County	Dmg Gov Prop	F	Open case	N/A
2/8/2023	Will County	Battery w/inj	M	Open case	N/A
1/26/2023	Will County	Obstruct ofcr	M	Open case	N/A
1/26/2023	Will County	Firearm w/o lic	M	Open case	N/A
1/3/2023	Will County	Shoot at occ veh	F	Open case	N/A
1/3/2023	Will County	Shoot at veh	F	Open case	N/A
1/3/2023	Will County	Unlic gun, aggr	F	Open case	N/A
1/3/2023	Will County	Reck disch gun	F	Open case	N/A
10/22/2019	Will County	Robbery	F	Pled to M	Prob, fine
10/22/2019	Will County	Robbery	F	Pled to M	Prob, fine
10/22/2019	Will County	Theft person	F	Pled to M	Prob, fine
10/22/2019	Will County	Theft fm person	F	Pled to M	Prob, fine
10/22/2019	Will County	Poss marijuana	F	Pled to M	Prob, fine

Soon after turning eighteen Nance was arrested for a robbery that involved “pressing a knife against [his victim’s] chest”. He got a break, and the case was settled with his plea to a misdemeanor marijuana charge. Nance completed a probationary term, by all appearances successfully. But his conduct eventually tanked. In January 2023 he shot at a female motorist during a traffic encounter. Police seized an unlicensed handgun and “two cartons of ammunition” from his backpack. Nance went on to assault an officer and soon collected additional charges.

Nance perpetrated his massacre using an “AR-15 style” rifle [that was recovered from his car](#). He also used a handgun. How he obtained these weapons hasn’t been revealed. His previous tangles made him ineligible to receive an [Illinois firearm owner’s ID card](#), which the State requires of all gun owners. So he probably acquired his guns through private transactions.



Shift to Minnesota. Prohibited or not, emotionally-troubled men – and it’s almost always a male – find it easy to get high-powered firearms. On February 18, 2024, after a prolonged negotiation session during which he denied being armed, Shannon Gooden (Facebook photo on left) [unleashed a barrage of “more than 100” rifle rounds](#), killing two Burnsville police officers and a paramedic who had responded to a call about a sexual assault. Despite a 2007 felony assault conviction and [a judge’s 2020 refusal to reinstate his gun rights](#), Gooden had multiple firearms and a copious amount of ammunition. He committed suicide



Switch to Maine. U.S. Army reservist Robert Card’s mounting “anger and paranoia” deeply troubled an Army chum. So much so, that in September 2023 [he warned their superior](#) that Card was going “to snap and do a mass shooting.” And on October 25 that’s exactly what he did, [unleashing back-to-back barrages](#) in a Lewiston bowling alley and a restaurant (surveillance photo on right) that killed eighteen persons and injured thirteen. Card had a troubled mental history. It included a two-week 2023 stint in an Army psychiatric ward that followed his mentions of “hearing voices” about “hurting other soldiers”. But the Army, which barred him from handling guns, apparently didn’t consider his treatment to be a [mental “commitment”](#) that required it inform the Insta-Check system. Ergo, Card remained able to buy guns to his wicked heart’s delight. Including the [Ruger SFAR semi-auto rifle](#) he used in the massacre . And yes, he bought it in a gun store. *Ten days earlier*. Card committed suicide as police closed in.

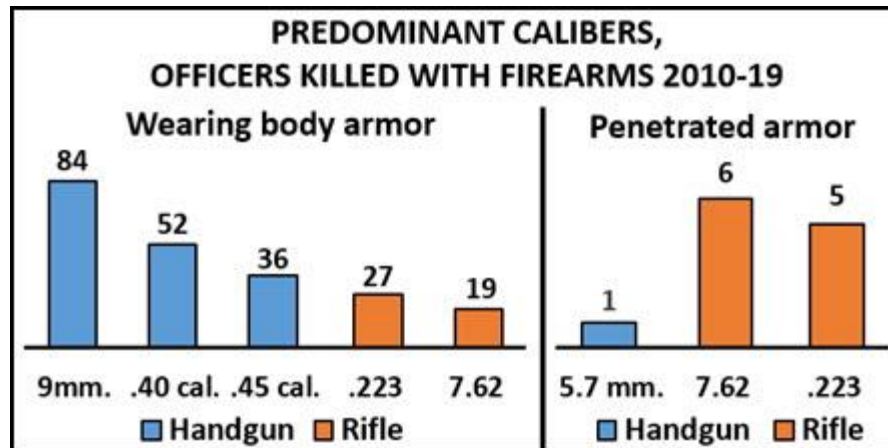


We began our post by declaring a focus on “senselessness”. Alas, irrational behavior is not uncommon. And in our gun-infused society, it all-too-often leads to gunplay. Most, though, involves handguns. As we pointed out in [“Going Ballistic,”](#) their lethality is far, far outstripped by the killing power of the military-style rifles that have become immensely popular among enthusiasts. And mass murderers. Let’s self-plagiarize from [our 2015 op-ed in the Washington Post](#):

One assumes that assault rifles were picked on [by the Federal ban] because they are particularly lethal. Key attributes that make them so include accuracy at range, rapid-fire capability and, most importantly, fearsome ballistics. In their most common calibers – 7.62 and .223 – these weapons discharge bullets whose

extreme energy and velocity readily pierce protective garments commonly worn by police, opening cavities in flesh many times the diameter of the projectile and causing devastating wounds.

All this is well known to law enforcement. Between 2010-2019 (the last year with complete [LEOKA](#) data) 471 law enforcement officers [were feloniously slain by gunfire](#). Of these, [339 were wearing body armor](#). And 21 were slain by rounds [that penetrated their armor](#). This graph depicts the most frequent culprits, gun-wise:



Ballistics definitely “count”. [According to a March 2023 article](#) in the Texas Tribune, that vulnerability was apparently very much on the minds of the officers who responded to the May 2022 massacre at Robb Elementary School in Uvalde, Texas. During “previously unreleased interviews” they said they backed off and waited for SWAT because they lacked the weapons and protective gear to confront the shooter’s “battle rifle”. Here’s its image when seized:



Several non-SWAT officers did try to make a prompt approach. As they went down the hallway the gunman opened fire through a door. Two officers got grazed:

The gunman had an AR-15...Its bullets flew toward the officers at three times the speed of sound and could have pierced their body armor like a hole punch through paper. They grazed two officers in the head, and the group retreated.

According to a police sergeant, “You knew that it was definitely an AR. There was no way of going in.”

When it came time to review the police response, political correctness took hold. Official assessments (click [here](#) for DOJ’s report) repeatedly blasted the (again, non-SWAT) cops for not promptly charging in . No mention was made of the exceptionally lethal nature of Ramos’ gun, whose projectiles would readily defeat “ordinary” ballistic vests commonly worn on patrol. Of course, Texas is a place that embraces guns. Suggesting that so-called “assault rifles” are simply *too* lethal would have stirred a hornet’s nest. Far better (and safer) to blame it on the cops, and *only* the cops.

Then came the Allen massacre. Attention turned to a [Texas House bill](#), backed by the families of Uvalde’s victims, that would have increased the minimum age for buying semi-auto rifles from 18 to 21 (Uvalde’s gunman was 18 when he bought his two AR-15 style rifles from a dealer.) That seems hardly controversial. Even so, gunplay had abated, [and the proposal quickly died in committee](#). Really, in Texas it simply can't be about the gun. Here’s what the legal counsel for [Texas Gun Rights](#) told the Washington Post [about the massacre in Cleveland, Texas](#):

It’s a tragedy but we need to get away from blaming guns which only answers the question of how and start asking the question why these shootings take place, why people feel the need to settle differences with violence and murder...

But didn’t Francisco Oropeza’s AR-15 style weapon pose a special threat? Absolutely not, the lawyer replied. Its presence was “meaningless.” After all, Oropeza “could have killed those people just as easily with a handgun.”

[In a recent interview](#), ATF Director Steven Dettelbach suggested that the unending stream of mass killings may be numbing Americans to the effects of gun violence. At a meet with families of the Lewiston massacre, he emphasized that speaking out was crucial. “Your voices are very important...It really makes a difference.” Dettelbach later told reporters that it was “too easy” for unstable persons to get firearms.

As a (long retired) ATF agent, we second the current boss’s views. Still, guns have suffused the land. They’re so easy to acquire from private sources that trying to control *who* gets them can seem hopeless. Perhaps a highly focused approach on the most lethal weapons – say, an outright prohibition on assault rifles – could help. After all, these instruments of war weren't in play when they penned the Second Amendment. Indeed, we urged that “solution” six years ago in “[Ban the Damned Things!](#)” Mind you, it

would have to be a *real* ban, *sans* the exceptions and workarounds that characterize so-called “assault weapons bans” in so-called “strong law” States like our own California.

But for that, check out “[A Ban in Name Only](#)”. Meanwhile, does anything here resonate? If so, pass it on!

Posted 4/9/24

IDEOLOGY (STILL) TRUMPS REASON

When it comes to gun laws, “Red” and “Blue” remain in the driver’s seat



For Police Issues by Julius (Jay) Wachtel. Vice-President Kamala Harris’ recent visit was an inevitable heart-churner. Scheduled for demolition, Florida’s Marjory Stoneman High School [remains mostly as it was](#) in February 2018 when a former student barged in and opened fire with an AR-15, murdering fourteen students and three employees and wounding more than a dozen others.

Speaking before an audience that included the victims’ families, Ms. Harris announced a new Federal initiative, the “[National Extreme Risk Protection Order Resource Center](#).” Established in partnership with the Bloomberg School of Public Health, it will train law enforcement officers, prosecutors, judges, clinicians and other service providers in the proper use of extreme risk protection orders, i.e. “Red Flag” laws, which authorize the pre-emptive seizure of firearms from dangerous persons. Such as [Nikolas Cruz](#), the deeply-troubled nineteen-year old shooter who had been expelled from Marjory Stoneman “for behavioral reasons” in the year preceding the massacre.

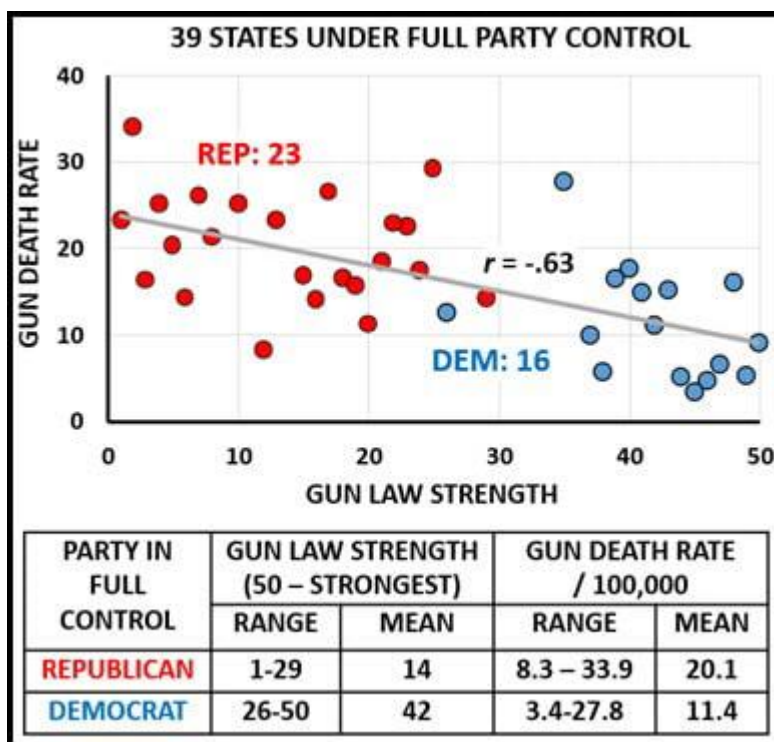
“[Ban the Damned Things!](#)” recounts Cruz’s ominous and extensive online history. Two years before his unspeakable deed, he posted photos of self-inflicted cuts and declared his intention to buy a gun. That led to a mental health referral. But a counselor cleared him, and the online ranting continued. Indeed, his intentions became so explicit (i.e., “Im going to be a professional school shooter”) that an Internet user warned the FBI about Cruz a mere month before the massacre. But nothing happened.

At the time, Florida lacked a “Red Flag” law. [That quickly changed](#). Still, the version it adopted wasn’t a complete solution. It requires that law enforcement officers (not simply citizens or family members) file a petition in court, and a hearing and judicial order are required before guns can be seized. No shortcuts are permitted. In 2019 [a](#)

[Lakeland woman was arrested for burglary](#) when she tried to turn in her estranged husband's guns to police. He was in jail after purposely ramming her car while on the road, and she feared for her life.

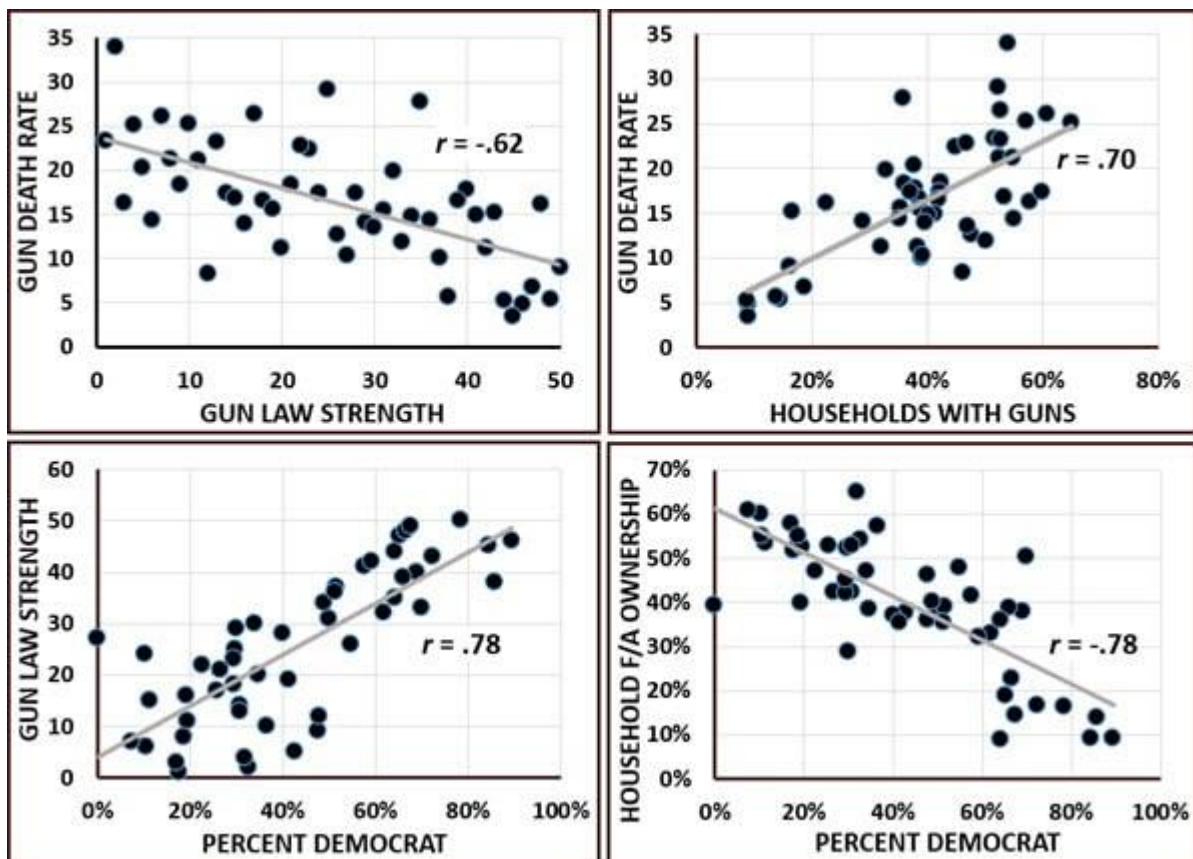
Marjory Stoneman led to another tightening. Cruz legally bought his AR-15 from a dealer when he turned eighteen, the Federal minimum. So Florida [raised the minimum age to buy long guns](#) to twenty-one. But this January, by an “11-5 party-line vote” (with “Reds” in the majority), the criminal justice committee of Florida’s House chamber [sent forward a measure](#) that would restore the ability of eighteen-year olds to buy long guns. According to Rep. Bobby Payne (R-Palatka), doing so is “very important in my rural area. We do a lot of bird hunting.”

That reset is still pending. But what Florida’s political leaders are yet to do is define certain semi-automatic firearms like Cruz’s AR-15 as simply being *too* lethal. Guns labeled as “assault weapons” [are presently banned in only ten States](#) – California, Connecticut, Delaware, Hawaii, Illinois, Maryland, Massachusetts, New Jersey, New York and Washington. According to the National Conference of State Legislatures (NCSL), as of March 2024 [each of these States is one of sixteen](#) that are under complete control of the Democratic Party, meaning that *both* legislative Houses *and* the Governor are “Blue.” Republicans, in turn, exercise full control over twenty-three States. None of these “Red” states has an assault weapons law. *Not one*.



Check out the above graphic. A telling partisan split extends well beyond assault weapons. Everytown For Gun Safety recently released its [2024 State gun-law-strength rankings](#). Their system assigns 1 to the State with the strongest overall gun laws, and 50 to the State with the weakest. We turned it around, creating a scale of gun law strength that ranges from 1-50, with 50 the strongest. Colored dots – red for Republicans, blue for Democrats – represent the 39 States that are fully under control of a single party.

According to the scattergram and table, there's a strong relationship between NCSL party composition, Everytown gun law strength rankings and [CDC 2021 firearm mortality death rates](#) (it includes all deaths by gunfire, including crimes, accidents and suicides). Check the table. Mean gun law strength for “Blue” States is *three times* that of “Red” States, and the mean death rate is only *half* in magnitude. Notice how neatly the “Reds” and “Blues” cluster in the scattergram, with the “Reds” displaying consistently lower gun law strength scores and higher death rates than the “Blues”. Indeed, their gun law strength scores overlap only once, in the middle. To more precisely express the relationship between gun law strength and gun death rate we computed the r (correlation) statistic. It ranges from zero, meaning no relationship between variables, to plus or minus 1, meaning a perfect association. For this group of 39 States, gun law strength and gun death rate have a robust r of $-.63$. As one goes up or down, the other consistently follows, but in the opposite direction.



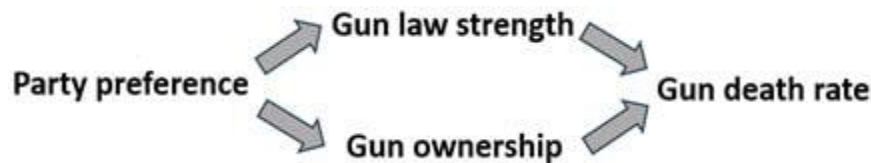
[“Policing Can’t Fix What Really Ails”](#), our recent exploration of the role of poverty in crime, assessed relationships between poverty, household firearms ownership, violent crime, homicide and gun deaths. The above scattergrams depict the results of a 50-State analysis which examines the role of Party composition (measured by proportion of State legislators who are Democrats) as a potential driving force.

- Top left graph: Gun law strength and gun death rates have a robust r of $-.62$, virtually identical to what we computed for the 39-State sample. As one factor increases, the other decreases, and in close sync.
- Top right graph: At $r = .70$, the proportion of households with guns exhibits a strong relationship with gun deaths. Since we’re considering all manner of gun deaths, including accidents and suicides, that’s no surprise.
- Bottom left graph: To assess the potential influence of political parties on gun law strength, NCSL data was used to determine each State’s proportion of “Blue” legislators. Results are consistent with what we found for the 39-State sample. Political party and gun law strength share a strong relationship, producing an r of $.78$. That’s a “positive” relationship, meaning the variables go up and down together.
- Bottom right graph: An equally robust correlation, in the “negative” direction, characterizes the relationship between party preference and household gun ownership. As percent “Blues” goes up, gun ownership goes down, and in very close sync.

This matrix displays all the relationships:

	PCT DEMOCRAT	GUN LAW STRENGTH	HH GUN OWNERSHIP	GUN DEATH RATE
PCT DEMOCRAT		0.78	-0.78	-0.52
GUN LAW STRENGTH	0.78		-0.79	-0.62
HH GUN OWNERSHIP	-0.78	-0.80		0.70
GUN DEATH RATE	-0.52	-0.62	0.70	

Check out the bottom row. Gun death rates substantially increase with gun ownership (positive relationship) but markedly decline as percent Democrat and gun law strength increase (negative relationship). “Reds” support gun ownership and oppose gun lawmaking. And here’s how we figure things play out in the “real world”:



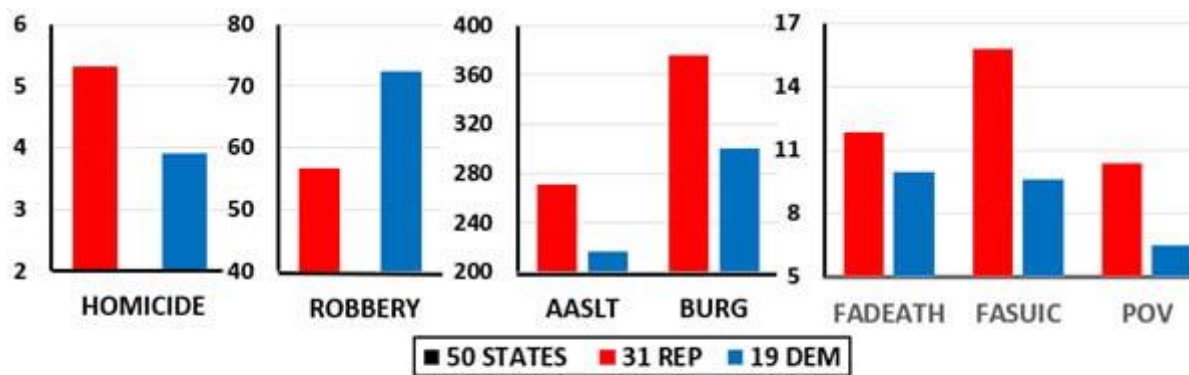
Given a reluctance, even in “Blue” places, to impose truly strict controls, guns have become ubiquitous throughout the land. [According to NBC News’ latest poll](#), 52 percent of registered voters – the highest proportion ever – have at least one gun at home. Firearms ownership was reported by 66 percent of “Reds”, 45 percent of Indies and 41 percent of “Blues”.

While full-blooded “Red” States are more deeply affected by gun violence, they don’t suffer alone. Consider Virginia. Traditionally split down the middle politics-wise, [it presently has two-member Democratic majorities](#) in its State House and Senate. But Governor Glenn Youngkin is a “Red.” [So he recently vetoed a host of gun control measures](#), including an assault-weapons ban, that had squeaked through on Party-line votes. He even turned away a prohibition on guns on college campuses that had been inspired by a [November, 2022 shooting](#) which took the lives of three University of Virginia students on a chartered bus. However, Gov. Youngkin *did* sign a bill requiring schools to remind parents of their responsibility to safely store guns. That tepidly-worded measure followed on a recent incident in which a six-year old first-grader used an unsecured gun to shoot his teacher. ([His mother just pled guilty to child neglect.](#))

Switch to deep-Blue. Consider [the recent tragedy in California](#), where a 10-year old used a gun he “stole” from his father’s car to shoot and kill another child. And the 66-year old upstate New York homeowner [who opened fire on vehicles that \(mistakenly\) drove up his driveway](#), killing one of the occupants. He just drew 25-to-life. (For many more such examples scroll through the “Updates” sections of our essays in [Gun Control 2023](#).)

Clashing ideologies aside, firearms ownership remains commonplace throughout the land. “Reds” argue that firearms are vital for protection, and many “Blues” agree. It turns out that their supposedly more “stringent” gun laws [are riddled with exceptions](#). Such as California’s assault weapons “ban”, which allows semi-automatic rifles that, other than for a ten-round limit, are the functional equivalents of the highly lethal AR-15.

So how *are* the risks of violence dispersed? These graphs report mean State crime rates from the [UCR](#), mean firearms mortality and suicide data from the [CDC](#), and State poverty data from the [Census](#):



PCT D	HOM	ROB	AASLT	BURG	FADEATH	FASUIC	POV
28.3	5.3	56.6	271.5	376.3	11.8	15.8	10.4
67.4	3.9	72.3	216.3	300.0	9.9	9.6	6.5

“Red” States suffer from higher homicide, aggravated assault and burglary rates, while “Blue” States have higher robbery rates. Residents of “Red” States seem at somewhat higher risk of crime, but the picture is mixed. What’s perfectly clear is that “Red” States contend with substantially higher rates of firearms death and firearms suicide. Given their elevated rates of gun ownership, that would seem all-too predictable.

However, their residents’ increased risk of death isn’t something that seemingly concerns “Red” politicians. Say, Indiana Governor Eric Holcomb (his State is eleventh “Reddest”, with a legislature under full “Red” control). Gary, one of the State’s few “Blue” places, had a [long-running lawsuit against the gun industry](#), which it blamed for fomenting violence. A judge recently gave it some steam. So legislators sent on, and Governor Holcomb quickly signed, a bill that prohibits cities from doing such things. And its effect is retroactive. Sorry, Gary!

Of course, the effects of partisanship go well beyond the gun debate. As we discussed in “[Judicial Detachment: Myth or Reality?](#)” ideological notions have long shaped key rulings by our vaunted Supreme Court. (Its “Reds” are presently in the driver’s seat with a one-vote advantage.) Bottom line: when it comes to critical public issues, informed, objective analysis is often elbowed aside by the unholy influences of political ideology, both “Red” and “Blue”. *That’s* what is truly scary.

KIDS WITH GUNS

Ready access and permissive laws create a daunting problem

For Police Issues by Julius (Jay) Wachtel. As our unimaginably conflicted Presidential campaign picks up steam, it's probably inevitable that even the most gut-wrenching examples of America's struggle with gun violence will be consigned to the back-burner. So when a married couple recently [drew fifteen years in prison](#) for their son's vicious behavior, hardly anyone (other than his victims' families, of course) seemed to notice.

In November 2021 15-year old Ethan Crumbley gunned down four classmates and wounded seven other persons at Michigan's Oxford High School. One day earlier, [a teacher had caught the youth](#) searching for ammunition on his phone. His parents were informed. His mother later messaged her son "Lol. I'm not mad at you. You have to learn not to get caught." That evening [Ethan's new Instagram post](#) showed him holding the gun: "just got my new beauty today...I am become Death, the destroyer of worlds. See you tomorrow, Oxford."

One hour before the massacre Ethan and his parents, Jennifer and James Crumbley, met with school staff about the son's concerning behavior. They were shown one of Ethan's posts. It depicted a gun, a bullet, a bleeding person, and these comments: "The thoughts won't stop. Help me", "Blood everywhere", "My life is useless", "The world is dead." But the parents declined to take the boy home. Neither did anyone peer in Ethan's backpack. It held the 9 mm. pistol that was bought four days earlier as an early "Christmas present."

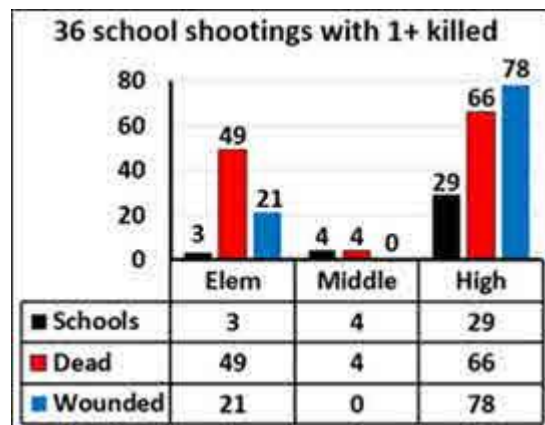
Last year Jennifer and James Crumbley [were convicted at separate trials](#) on four counts of voluntary manslaughter for recklessly furnishing the gun to their son. It didn't help their cause that Ethan had accompanied his father to the gun store. Nor that his mother once [posted an open letter on Twitter](#) thanking newly-elected President Trump for, among other things, "allowing my right to bear arms [and] be protected if I show a home to someone with bad intentions."

[Ethan pled guilty](#) to first-degree murder and terrorism in December 2023. He told the judge that "any sentence that they ask for, I ask that you do impose it on me". Although seventeen, thus still not technically an "adult", he drew life without parole. His parents will be eligible for release in ten years (click [here](#) for the *Washington Post* "deep read".)

Families of the shooting victims sued school staff for failing to take preventive action. But on March 20, 2025 [a Sixth Circuit panel rejected the claim](#) that Oxford High in effect created the danger by staging a meeting that included the shooter, and insisting that the boy either get counseling or they'd bring in child protective services. So that's where things presently stand.

Troubled youths often act out their demons at school. And if a gun's readily available, so much the worse. We've covered a host of these tragedies. Here are the worst four:

- [1999 Columbine High School massacre](#) (Columbine, Colorado). Two twelfth-grade students, one eighteen, the other seventeen, used assault-style pistols and shotguns acquired through friends to murder twelve students and a teacher and wound twenty-one others.
- [2012 Sandy Hook Elementary School massacre](#) (Newtown, Connecticut). A twenty-year old former student killed his mother, then used her assault-style rifle and 9 mm. pistol to shoot his way into the school. He gunned down twenty children and six adult employees, then committed suicide. [Police Issues post](#)
- [2018 Marjorie Stoneman High School massacre](#) (Parkland, Florida). A nineteen-year old former student used an AR-15 style rifle that he legally bought in a gun store in 2017 to murder fourteen students and three teachers. He was later arrested without incident. [Police Issues post](#)
- [2022 Robb Elementary School massacre](#) (Uvalde, Texas). An eighteen-year old former student shot his grandmother in the face, then used an AR-15 style rifle that he legally bought (he left a second rifle in his vehicle) to murder nineteen students and two teachers and wound seventeen others. He was shot and killed by a SWAT team while still inside the school. [Police Issues post](#)



Here our objective is to explore the youthful misuse of guns, and particularly by younger teens. While we didn't intend to focus on school shootings, these deplorable events helped us explore how children became murderous gunslingers. Using Wikipedia's [List of school shootings in the United States \(2000–present\)](#), we selected all shootings at K-12 schools between 2012 and 2024 where the shooter was under 21 and killed at least one person. That

yielded 36 episodes, one at each of three elementary schools, four middle schools, and 29 high schools. In all, 119 persons were killed and 99 were wounded.

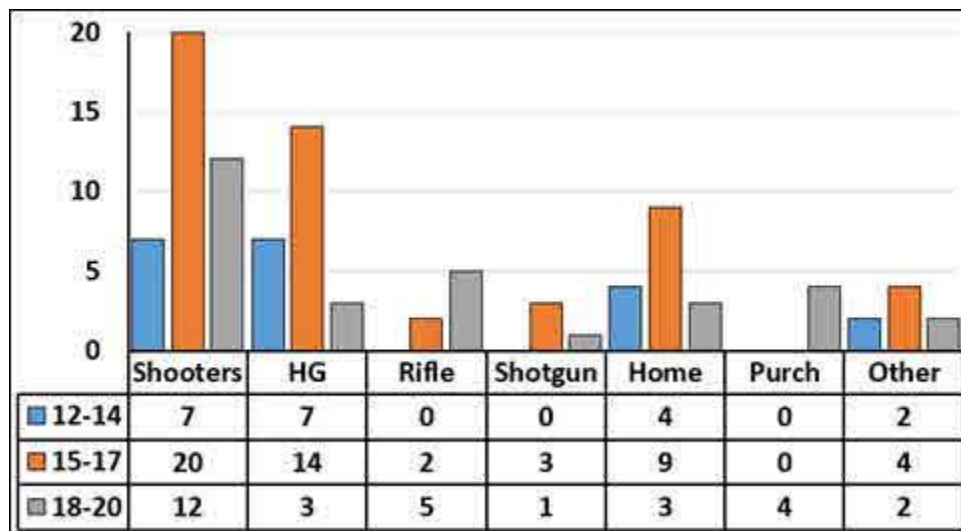
There were two unique groups: thirty-two shootings with one to four persons killed other than the shooter, and four shootings with ten to twenty-six:

Deaths	Shootings			Victims		Shooters	Weapon type				
	#	Targeted	Untargeted.	Killed	Wound.	Avg. age	Handg.	Shotg.	Rifle	Comb.	Unk.
1-4	32	22	10	45	50	15.7	23	3	4	2	4
10-26	4	0	4	74	49	18.5	1	1	3	1	0

22 TARGETED SHOOTINGS				
Victims		Firearm type (18 shtgs)		
Killed	Wounded	Handgun	Shotgun	Rifle
24	9	15	2	1
14 UNTARGETED SHOOTINGS				
Victims		Firearm type		
Killed	Wounded	Handgun	Shotgun	Rifle
95	90	9	2	6

Shooter intent and gun type were key determinants of the human toll. Twenty-two episodes in the one-to-four killed group were “targeted” on specific antagonists, often someone who supposedly had bullied the shooter. ([In a middle school shooting](#) that involved three 13-year olds, the shooter was the bully, while his victim was a youth who was defending the child being bullied.)

Handguns were used in nearly all targeted shootings. Per-shooting casualty counts were accordingly limited: twenty had one death, and two had two deaths each. In contrast, eight of the fourteen “untargeted” episodes, where shooters had no specific victim in mind, caused more than one fatality. Their greatly disproportionate overall toll is attributable to four episodes that involved long guns: the [2018 Santa Fe High School \(TX\) shooting](#), where a 17-year old armed with a handgun and shotgun took ten lives, and the massacres at Sandy Hook, Marjorie Stoneman and Robb Elementary, where rifles were used to murder sixty-four.



Our thirty-six episodes had forty shooters. Thirty-nine were between the ages of twelve and twenty; one was twenty-one. Handguns were by far their most common weapon. After all, they're easy to conceal, and firepower isn't as much at issue when there is a specific "target" in mind. Handguns were also the *only* firearms used by the younger shooters. Unable to legally buy a gun of any kind, they usually turned to weapons that belonged to adult family members and were kept at home.

	Handgun	Rifle	Shotgun
Home	12	4	2
Store	0	2	1
Priv	0	1	0
Stolen	2	0	0
Ghost	1	0	0
Unk	9	0	1

In our lead-off example a fifteen-year old's parents were imprisoned over the lethal consequences of gifting a pistol to their deeply troubled son. News accounts don't suggest that family members purposely granted such ready access to any of the other young shooters. Two of their handguns actually came from other teens' homes. In a [2022 Seattle-area high school shooting](#) a 14-year old boy used a pistol that another 14-year old supposedly stole from his father's handbag. Six years earlier, [a 15-year old Arizona high school student](#) borrowed a handgun from a classmate who brought it from home, supposedly without permission. After the killing, the shooter committed suicide. He was one of ten in our sample to do so.

	Handgun	Rifle	Shotgun	Comb.	Unk.
Episodes	21	6	2	3	4
Killed	32	68	2	12	5
Wounded	30	45	1	23	0

Rifles were of mixed origin. Two massacres – at Marjorie Stoneman and Robb Elementary – were committed with rifles that

shooters legally purchased at gun stores. The rifle used at Sandy Hook belonged to the youth's mother. He took it, along with a handgun, after shooting her dead. We've often commented on the killing power of assault rifles (see "[Ban the Damned Things!](#)"). Here their effects proved truly devastating. Used on only six occasions, they accounted for more than half the total deaths and nearly half the woundings.

Schools continue to be beset by armed youths. On May 1, 2024 [Mt. Horeb, Wisconsin police shot and killed a 14-year old](#) who was about to enter his middle school while armed with a rifle. He reportedly pointed the weapon – it turned out to be a Ruger .177 caliber pellet rifle – at responding officers and didn't drop it when ordered. His disturbing online chatter (he posted "my last morning" earlier that day) revealed a fascination with guns.

Two days later, [a 17-year old Washington D.C. high school student was wounded](#) by a bullet that pierced her classroom. Two students, ages seventeen and eighteen, were

arrested for “assault with a dangerous weapon, carrying a pistol without a license and endangerment with a firearm.”

Might lawmaking offer a solution? [Not according to Iowa’s Governor](#):

This was a horrible tragedy. It’s certainly nothing that any governor wants to wake up to in the morning and hear what’s happened. No additional gun laws would have prevented what happened. There’s just evil out there.

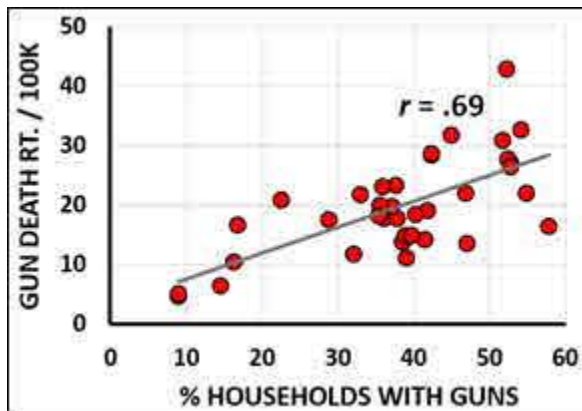
Gov. Kim Reynolds was reacting to the [January 4, 2024 shooting at Perry High School](#). Reportedly upset over being bullied, a 17-year old student opened fire with a handgun and a shotgun, killing two and wounding six. Authorities haven’t identified the weapons’ source. But the teen was too young under either [Iowa](#) or [Federal](#) law to buy a gun of any kind at a store. Iowa law also bars giving handguns to persons under twenty-one, and long guns to anyone under eighteen. Parents, though, can permit underage youths to possess long guns. They can also allow supervised access to handguns by those at least fourteen.

[State gun possession and purchase laws](#) vary. Hawaii and Illinois are the most restrictive, with a minimum age of twenty-one for both firearms purchase and possession. At the opposite extreme, Missouri, Montana, Ohio and Texas set no minimum age for possessing any type of firearm. Florida reacted to the Marjorie Stoneman massacre by increasing the minimum age for buying a rifle from eighteen to twenty-one, the same minimum that applies to handguns. Natch, gun enthusiasts were unhappy. Earlier this year, the State’s House chamber [approved a bill](#) that would return the minimum age for long-gun purchases to eighteen. [But it died in the Senate](#).

Teen firearms misuse is by no means limited to school grounds. [A fourteen-year old Los Angeles girl was recently charged with murder](#) for gunning down a 20-year old woman who was standing on a streetcorner. Why the teen fired and where her gun came from are still to be revealed. But the March 21st. killing took place in the State [with the strongest gun laws in the nation](#).

Last year, “[Are We Helpless to Prevent Massacres?](#)” explored the issue of prevention. It was inspired by the March 27, 2023 massacre at Nashville’s Covenant Christian School, where a 28-year old armed with assault rifles unleashed a fusillade, killing three nine-year olds and three adults. Check out the essay and its related posts, say, “[Our Never-Ending American Tragedy](#)” for more. It’s subtitled “A murderous rampage in Nashville suggests that lawmaking is not a solution.”

Our views about that haven't changed. Yet some steps *are* possible. While we don't promote the notion of imprisoning careless parents, encouraging safe gun storage can help. Ditto, holding gun makers to account for recklessly marketing their wares. Check out the recent story about the lawsuits [filed by families of the victims of Uvalde](#).



Problem is, firearms have great cultural significance. Our society's attitudes about gun ownership and possession have inevitably led to their abundant (over-abundant?) presence. So half-steps – and that's clearly all that many (most?) of our fellow-citizens seem willing to do – are unlikely to substantially lessen the mayhem. Our graph uses [CDC data](#). While we don't claim that gun density is the *only* "cause" of gun deaths, it clearly matters. *A lot*. Even when we "control" for our favorite evil-doer, poverty, the " r " only drops to .61. (For more, see "[Policing Can't Fix What Really Ails](#).")

Let's close with a bit of self-plagiarism from "[Our Never-Ending American Tragedy](#)":

Given the nature of our society and its body politic, tweaking the rules seems the only option. But even the hardest legal response (e.g., California's) has had at best only a limited effect. What would work – drastically shrinking the number of guns in citizen's hands and sharply curtailing the lethality of what remains – seems well out of reach. We're not Britannia! That's why when it comes to gun control, *Police Issues* tends to despair. Yet there's been some momentum. Hopefully the final chapter of Reasonable Americans v. Guns is yet to be written.

Couldn't have said it better ourselves!

Posted 5/15/23

“LEGAL” GUN BUYERS CAN BE A PROBLEM

They figure in many killings, as both doers and enablers



For Police Issues by Julius (Jay) Wachtel. Does this image stir your memory? It depicts the Uvalde, Texas retailer where eighteen-year old Salvador Ramos [bought the AR-15 style rifle](#) he used to murder nineteen students and two teachers at Robb elementary school last year.

Oasis Outback (it's still in business) was [one of 52,799 licensed firearms dealers](#) in the U.S. in 2020, and one of 10,635 in Texas. Only about one in four have a commercial storefront. Most licensees – estimates peg it at 74 percent – [operate from their homes](#). Either way, the numbers are huge. And to partake of their goodies is ridiculously easy. Other than money, all one needs is to be of age – the Federal minimums for buying from a dealer are eighteen for a long gun and twenty-one for a handgun – and to be free from a felony conviction ([18 USC 922\[b\] and \[g\]](#)). A handful of states (not including Texas) have raised set the minimum for long-gun purchases [at twenty-one](#). And to assure that criminal record checks are thorough and, ostensibly, to discourage impulsive purchases, several (again, excluding Texas) [impose a few days' wait](#) before guns can be picked up.

And that's about it.

Considering the quirks of human nature, America's permissive approach to gun acquisition might seem an exercise in self-annihilation.



Guns, though, have been an integral part of the sociocultural (and Constitutional) fabric since our nation's founding. And thanks to a prolific firearms industry, our land is awash with lethal toys. Just *how* “awash”? [According to ATF](#) (full disclosure: your writer's one-time employer), gun manufacturers produced 13,804,919 firearms for non-military use in

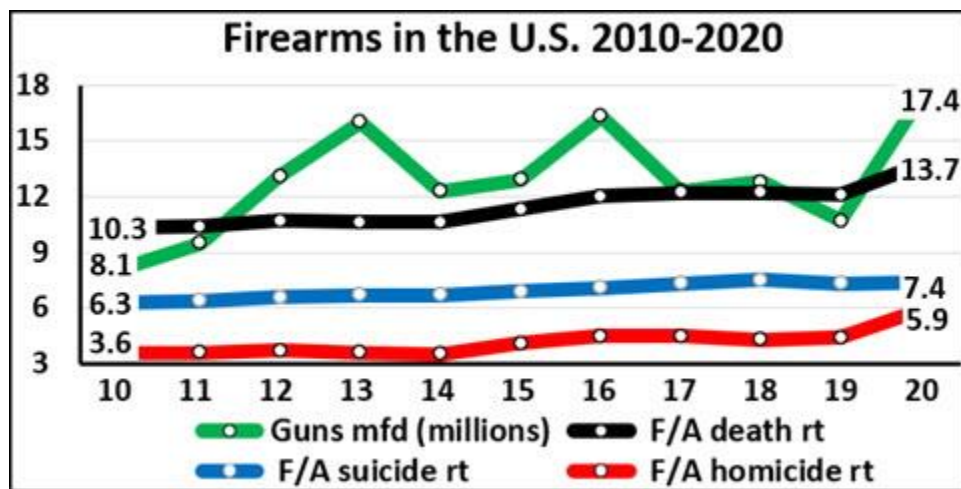
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2021. Of those, 458,684 were exported, leaving 13,346,235 to be distributed domestically. Again – *that's in a single year*. Over time, the numbers are truly astounding. During 1986-2021, including imports (and excluding exports) 281,196,579 guns entered the domestic marketplace.

There is a small hitch. These quantities include guns (mostly, handguns) acquired by police. Large agencies that responded to a [2013 PERF survey](#) reported buying an average of forty-four handguns per officer per year. Extended to [all 18,000 state, county and Federal law enforcement agencies](#) in the U.S., that's well under one million. That leaves, um, twelve-million-plus new guns for resale to, well, you and me. *Each year*.

Americans readily admit they're well-armed. Thirty-two percent of adult respondents to a [2020 Gallup poll](#) reported owning a gun, and 44 percent said they lived in a household with a gun. Of course, there *are* consequences. Simple common sense suggests that more guns = more instances of impulsive misuse (see, for example, "[Fearful Angry. Fuzzy-Headed. And Armed.](#)") According to a [Rand report](#), increased gun availability is a likely explanation for the continuing uptick in suicide. [A seemingly robust study](#) published by the American Public Health Association noted that increased gun ownership during 1981- 2010 was associated with an increase in gun homicide.

Using [CDC data](#) we brought it together in a single graph:



During 2010-2020, as gun production ramped up and guns piled up, the per/100,000 rates for gun deaths, gun suicides and gun homicides steadily increased. Statistically speaking, the relationship between gun manufacture and the other variables is moderately strong, with *r*'s (correlation coefficient, range 0-1) of .55 with firearm deaths, .49 with gun suicides, and .57 with gun homicides.

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Of course, factors other than guns contribute to violence. One that we frequently turn to is economic conditions, measured by poverty (see, for example, “[Worlds Apart](#)”). Guns, though, are often the means. So how do evildoers get them? In this essay we’ll focus on what happens with guns, such as those acquired by Salvador Ramos, that are sold at retail. Several studies have confirmed that these ostensibly legal transactions can lead to poor endings:

- Our journal article, “[Sources of Crimes Guns in Los Angeles, California](#)”, reported that unlicensed “street dealers” and corrupt licensed dealers – particularly, those based at home – were sources of a substantial number of crime guns. Fourteen percent of a set of 1,599 firearms seized by L.A.-area police during 1988-1995 whose retail purchasers’ names were known were in fact recovered from their buyers (pg. 228).
- Twenty-seven percent of the inmates who responded to [DOJ’s 1991 prisoner survey](#) reported that they bought the gun they got caught with at a store. Ten percent said so on the [2016 survey](#) (pg. 7).
- Violence Project’s [database of 190 mass shootings](#) between 1966 and 2021 reveals that eighty of 172 shooters (46.5%) legally acquired their guns, and that fifty-five (32%) purchased at least one from a licensed dealer.
- Twelve percent of the nearly one and one-half million crime guns [traced by ATF](#) during 2017-2021 were confiscated from their retail buyer (pg. 26.) This is unavoidably an underestimate, as possessor identities often go unreported to ATF. Even so, each year police are apparently seizing more than *thirty-six thousand* store-bought guns from their buyers.

The frightful carnage enabled by store-bought guns didn't end with Salvador Ramos. Here are three more recent examples:

- [Louisville, Kentucky, April 10, 2023](#). Livestreaming his foul deed, 25-year old Connor Sturgeon opened fire with an AR-15 style rifle on his Louisville bank co-workers. By the time police shot him dead he had killed five. He also wounded eight persons, including two of the responding officers. Sturgeon legally purchased the weapon [from a local gun dealer](#) six days earlier.
- [Nashville, Tennessee, March 27, 2023](#). Audrey Hale, a 28-year old Nashville resident, possessed two assault-style rifles and a handgun during his attack at Covenant Christian School. [Unleashing 152 rounds](#), he murdered three

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employees and three nine-year old students. Hale bought these guns and four more at five different gun stores between 2020-2022.

- [Chesapeake, Virginia, November 22, 2022](#). Andre Bing, a 31-year old Walmart night shift supervisor, purchased a 9mm. pistol at a gun store in the morning. Some hours later he fatally shot six co-workers, then committed suicide.

Is there anything that might have prevented these massacres, or at least mitigated their effects?



[According to Giffords](#), ten states and D.C. ban assault weapons. But none of our three assault-rifle-packing killers – Ramos (weapons on left), Sturgeon and Hale – lived in any of those states. In any event, such “bans” are no solution. As our prior posts (for example, “[Ban the Damned Things](#)”) and [Washington Post op-ed](#) point out, assault weapons “bans”, including the long-expired Federal ban, fail to address the guns’ most lethal aspect: their fearsome ballistics. Instead, the focus is on extrinsic features such as magazine capacity and hand grips. Even in the most “restrictive” jurisdictions (i.e., California), .223 caliber semi-auto rifles remain legal. And as demonstrated in the deplorable example set by [Syed Farook and Tashfeen Malik](#), the married couple who murdered fourteen in San Bernardino, Calif., frightfully deadly.

Our four killers purchased their guns legally. Ergo, none had a criminal record. Salvador Ramos, at eighteen, was just barely old enough to buy a long gun under Federal law. Like most every other state, Texas never raised that bar. [A bill to do so](#) for assault weapons, which was inspired by Uvalde, has been introduced in the Texas legislature. It’s deemed to have no chance of being enacted into law.

Was there anything else about these characters that, had it been acted on, might have prevented them from at least “legally” buying guns?

- Salvador Ramos’ criminal and mental health histories were both supposedly clean. But he was nonetheless “[a troubled soul](#).” News articles and [Wikipedia’s account](#) paint a disturbing picture of his angry nature and violent propensities. Ramos was chronically rude to coworkers. And there were those bizarre social media posts, of which the most threatening came shortly before the massacre. Setting those aside – they were probably too late to act on – concerns about personal freedom make it doubtful that a



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“[Red Flag law](#)” could have been successfully applied. In any event, [Texas doesn't have one](#) (ideological quarrels [make it unlikely](#) that will soon change.)

- Connor Sturgeon held a master's in finance, was a well-regarded bank employee, [and had no prior contacts with police](#). But family members said he struggled with mental problems and [was receiving psychiatric treatment](#) for anxiety and depression. Shortly before embarking on the massacre he texted a friend that he was suicidal. But as with Ramos, the warning came too late. Even if Sturgeon's family knew of his gun purchase, Kentucky lacks a Red Flag law, so their ability to act would have been severely constrained.



- Audrey Hale was also deeply troubled. Like Sturgeon, Hale was being treated [for an "emotional disorder."](#) Hale's parents, with whom the transgender person lived, didn't feel that Hale should have guns, and thought that Hale had sold the one they knew of. They were supposedly unaware of the store-bought guns that Hale had stashed around the house. Nor of the "calculated plan", including maps, that Hale assembled in preparation for the massacre. Tennessee also lacks a Red Flag law, so Hale's parents had few options. As with Sturgeon and Ramos, Hale texted his intentions to an acquaintance just before embarking on the lethal rampage.



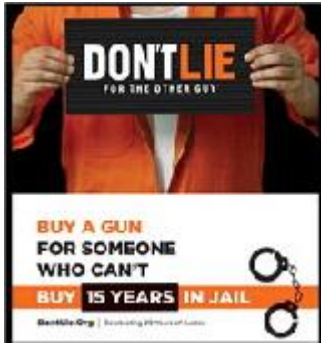
- Andre Bing's coworkers [described him](#) as "an aggressive, if not hostile, supervisor" who conceded having "anger issues". An employee who was present during the massacre accused him of "picking people out" to shoot. Police say that Bing [left a note on his phone](#) that complained about being mocked and harassed. It had plentiful clues about his troubled psyche. "Sorry everyone but I did not plan this I promise things just fell in place like I was led by the Satan...I was actually one of the most loving people in the world...I just wanted a wife that was equally yoked as I and obsessed over the thought; however, I didn't deserve a wife." [Virginia has a Red Flag law](#), but only officials can submit a petition.



[According to ATF](#), fifty-eight percent of crime guns traced between 2017 and 2021 (866,120 of 1,482,702) were purchased by someone other than their possessor (p. 26). Clearly, what buyers do with their guns (other than pull the trigger) is also important. As it turns out, many resell their weapons. Consider, for example, the August 2021 murder of [Chicago police officer Ella French](#). She was killed and her partner was wounded when

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brothers Eric and Emonte Morgan opened fire during a traffic stop. Their gun, a Glock .22, was bought for Eric Morgan by a friend because Eric, a convicted felon, couldn't do so himself. Purchaser Jamel Danzy's bad deed, which devastated the officers' families and coworkers, earned him two and one-half years in Federal prison.



“Straw purchase” – buying a gun for someone else – is commonplace. [Our “Sources” article](#) cites so-called “straw buyers” as one of three major sources of trafficked guns (the other two are corrupt licensed dealers and unlicensed “street” dealers). [According to Giffords](#), straw purchasing “is the most common channel identified in trafficking investigations.” According to [a journal article](#) by noted firearms researcher Garen Wintemute, there were more than 30,000 attempted straw purchases in a single year. Indeed, ATF has found straw buying to be such a problem that it partnered with the NSSF in a national campaign entitled “[Don’t Lie for the Other Guy](#)”.

Disaster can strike even when buyers are well intentioned. On January 6, 2023 a six-year old Virginia boy suffering from an “acute” mental disability snuck his mother’s legally purchased pistol into school and [shot his teacher during class](#). Authorities [charged the mother](#) with felony child neglect and misdemeanor failure to secure a gun. (The child’s parents normally take turns accompanying the troubled boy to class, but neither did on that day). The teacher was seriously wounded but is recovering.

Back to human nature. Once firearms come off a dealer’s shelf, they can easily become a source of grief. So if you’re reassured because someone “legally” bought a gun from a dealer, think again!

Posted 3/13/11

LETTING GUNS WALK

Pressed to make a really big case, ATF managers went for broke

By Julius (Jay) Wachtel. “If you’re going to make an omelette, you’ve got to break some eggs.” That, said [ATF special agent John Dodson](#), was his agency’s excuse for allowing [more than 1,700 firearms](#), including scores of AK-47 clones and .50 caliber, armor-piercing rifles, to land in the lap of Mexican cartels. “[The day I started, there were 240 guns they had \[let out\]](#)...Guns they were purchasing were showing up on both sides of the border already. I mean...a guy comes in and purchases 10 AK-47s, and four of them he purchased last time have already shown up on the other side of the border? And you keep going?”

The flow of guns from the U.S. to Mexico is a long-standing problem. With [laws that forbid](#) private citizens from possessing handguns beyond .38 caliber and rifles beyond .22’s, our Southern neighbor has long been a favorite destination for American hardware. (For an English-language summary of Mexican gun laws click [here](#).)

Your blogger, a retired agent, worked on many such cases in Arizona during the 1970’s. (For an example, click [here](#).) Then, as now, traffickers got local residents to act as “straw buyers” and buy large-caliber handguns and rifles at gun stores on their behalf. In the nineties, when Mexico moved in earnest against the cartels, wars for supremacy broke out and arms smuggling reached a fever pitch. Much of the flow turned to military-style rifles such as the [WASR-10, a Romanian AK-47 clone](#) that is apparently imported into the U.S. for the main reason that it’s such a desirable commodity in Mexico.

Most states, including the primary sources of guns smuggled to Mexico, Arizona and Texas, [impose neither quantity limits nor waiting periods](#) on gun purchases. Ordinary persons can walk into a gun store and leave with an armful of rifles in minutes. All they must do is show a local ID, pass an automated criminal record check and certify on a [Federal Form 4473](#) that they are “the actual buyer/transferee of the firearm(s) listed on this form.” That’s right: no matter how many guns they buy, it’s all on the honor system. (For more about the ease of purchasing guns click [here](#).)

Dealers don’t report long-gun sales to ATF, so it usually only learns of a bulk transaction when police or a foreign government trace a recovered gun. However, Federal regulations require that dealers who sell more than one handgun to the same

buyer in a five-day period [promptly report the transfer to ATF](#). Multiple sales are common, and by the time that agents learn of them it's too late to intercede.

It's not simple to prove that someone acted as a straw buyer. Purchasers are under no obligation to answer ATF questions. Neither are gun possessors, nor those to whom recovered guns are traced. Even when someone admits to falsifying an ATF form the penalties (a maximum 5-year prison term) are weak. "Lying and buying" is taken lightly by Federal attorneys, who often decline to prosecute, and by judges, who invariably impose lenient sentences. That's not just the blogger's opinion: it comes from no less an authority than the Department of Justice, whose [November 2010 review](#) of Project Gunrunner, ATF's guns-to-Mexico interdiction program, declared the pursuit of straw buyers a dead cause:

Because there is no federal firearms trafficking statute, ATF must use a wide variety of other statutes to combat firearms trafficking. However, cases brought under these statutes are difficult to prove and do not carry stringent penalties – particularly for straw purchasers of guns. As a result, we found that [Federal prosecutors] are less likely to accept and prosecute Project Gunrunner cases. And when these cases are prosecuted and convictions obtained, Federal Sentencing Guidelines categorize straw-purchasing related offenses as lesser crimes.

Since drug trafficking crimes are much more popular with prosecutors and carry far harsher penalties, auditors urged that ATF stop spinning its wheels on minor cases and partner with DEA to pursue the cartels. Forewarned that criticism was coming, ATF had already published a new set of guidelines, "[Project Gunrunner – A Cartel Focused Strategy](#)," laying out the new approach:

While our strategy will remain multi-faceted and continue to include the inspection of licensed gun dealers and the targeting and arresting of straw purchasers, our revised approach will place greater emphasis on investigations that target specific cartels and the persons responsible for organizing and directing firearms trafficking operations in the United States. We have come to understand that we can best impact firearms trafficking to Mexico and Southwest border violence by linking our investigations to drug trafficking organizations and where possible to specific Mexican cartels. Our efforts will also be enhanced through increased coordination with our Federal counterparts.

Prophetically, the writers threw in a few words of wisdom along the way:

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There are also practical considerations that may require bringing investigations to a conclusion or dictate a change in investigative tactics prior to the identification of persons directly affiliated with the [drug trafficking organizations.] Examples include high volume trafficking investigations in which numerous diverted firearms identifiable with one or more purchasers are being used in violent crimes and recovered by law enforcement, and high volume trafficking investigations in which over an extended period ATF cannot reasonably determine where or to whom such firearms are being trafficked. SACs must closely monitor and approve such investigations, assessing the risks associated with prolonged investigation with limited or delayed interdiction....

In the real, messy world of investigating gun traffickers the “egg-breaking” that agent Dodson spoke of is hard to avoid. When your blogger established a gun trafficking group in 1993 (yeah, that’s a ways back) the very first case demonstrated the difficulties of keeping track of small, lethal objects. Police caught a parolee with a gun. It was traced to a small, home-based dealer who had been buying dozens of handguns at a time from a distributor. We got the seller to let us know when the buyer returned. Alas, the first notice came late and the load was lost. But the next time we were positioned well in advance. We followed him from the premises and watched as he met with others, then trailed one of these third parties to a small restaurant. Later that evening, agents intercepted its manager – the fourth person in the chain – as he delivered five pistols (all that was left from an original load of thirty) to residents of a gang-infested neighborhood.

It wouldn’t be the only time that guns would slip through our fingers (for a published account of the years-long project, click [here](#).) But the losses were usually small, and considering the fact that local cops were recovering north of 10,000 guns a year there was little choice but to plod on.

Well, back to the future. In October 2009, nearly a year before it formally adopted a cartel-centric strategy, ATF had implemented a pilot program in Arizona. In an operation dubbed “[Fast and Furious](#)” agents tracked the activities of a group of gunrunners who had already bought 200-plus guns from Phoenix retailers. Hoping to bring down a cartel, agents clued in the dealers, and with their assistance monitored and videotaped gun purchases for the next *fifteen months*, letting a stunning 1,765 guns pass under their noses.

Not everyone on the F&F team was a happy camper. Its most outspoken former member, [special agent John Dodson](#), insists that four of the seven agents assigned to the project opposed letting guns “walk.” Objections were voiced by other ATF insiders,

including the attaché in Mexico City. He was right to worry. [ATF estimates](#) that to date at least 195 F&F guns have turned up in Mexico. A furious Mexican legislator has claimed that these weapons have been involved in “150 cases of injuries and homicides.”

Mexico took the brunt of it. But F&F guns inevitably started turning up in the States. In May 2010 a Border Patrol agent recovered several during a tense confrontation with bandits. Then in December two F&F guns were found at the scene of the murder of [Border Patrol agent Brian A. Terry](#). While it's not thought that they were used in his killing, the recovery brought the ill-starred project to an end. In January 2011 Federal prosecutors [indicted thirty-four suspects](#), mostly straw buyers and moneymen, on gun charges. Surprisingly, a few were also accused in a drug and money-laundering conspiracy.

You see, “Fast and Furious” was never meant to be just a gun case. True to its ambitions, ATF had partnered with DEA to go after the Sinaloa cartel. It may be that the unseemly delay in shutting down the iron pipeline was influenced by hopes that, given enough time, agents could hook the big fish. Well, they got away, but there was apparently enough evidence, perhaps in the form of wiretapped conversations, to snare a few lesser players on drug charges.

So was waiting worth it? According to [Attorney General Eric Holder](#) the answer is a resounding “no.” As he recently pointed out, guns *are* different. “I’ve...made clear to people in the department that letting guns walk ... is not something that is acceptable. Guns are different than drug cases, or cases where we’re trying to follow where money goes.” Well said. Now if the A.G. would only get Federal prosecutors to take ordinary gun cases more seriously, we’d be all set.

Posted 11/16/08

LONG LIVE GUN CONTROL

By Julius Wachtel, (c) 2010

“He’s a gun snatcher. He wants to take our guns from us and create a socialist society policed by his own police force.” Standing in front of a wall bristling with assault weapons, that’s how Texas gun-store owner [Jim Pruett](#) described the reign of terror that President-elect Obama intends to unleash on unsuspecting Americans. What he didn’t explain, perhaps because the reporter forgot to ask, was exactly how the new Prez and his liberal posse would get police and the military (last I checked, they seemed pretty, um, *conservative*) to abandon our land, from sea to shining sea, to a bunch of Commies.

Maybe Jim didn’t really mean it. Click on his [website](#) and you’ll see right away that his gun store is an “anti-terrorist,” not anti-Government headquarters. Those [assault rifles](#) are for use against evildoers only!

Beefy all-American muchachos aren’t the only ones plunking down their hard-earned bucks for a [.50 caliber Smith & Wesson revolver](#) or a [Bushmaster Modular Carbine](#). Thanks to the avarice/misguided patriotism (you pick) of the American firearms industry, and the ignorance/ spinelessness/misguided patriotism (you pick) of Federal, State and local lawmakers, ordinary gangsters are now better armed than cops. And the threat isn’t just from “real” criminals. Last year’s spate of [school massacres](#) demonstrated that demented citizens have frightfully powerful and accurate weapons at their disposal as well.

Where do crime guns come from? [Nearly all are bought in retail stores](#). And despite the ridiculous assertions of gun fanatics and their fellow-travelers, [most aren’t stolen](#). Weapons purchased by straw buyers and gun traffickers often wind up on the streets quickly. Others lay around for years and pass through many hands before being misused.

Buying a gun from a licensed dealer is ridiculously easy. Federal law imposes few requirements. Long-gun buyers must be 18; handgun buyers, 21. They can’t be convicted felons. And that’s about it. Other than for a few States like California that impose a waiting period or restrict handgun sales to one per month, it’s possible to leave with an armful of weapons within minutes.

What about those who can't legally buy firearms or want to remain invisible? All that's necessary to defeat the feeble system is to get a "straw buyer" to belly up to the counter. That's how a [gun recently used to murder a Philadelphia cop](#) wound up on the street. One can also circumvent gun stores altogether. As we pointed out [last week](#) gun transactions between private individuals are mostly unregulated, so it's easy to go to a gun show and buy one gun or a carload *without showing any ID at all*. Worse, since private parties aren't required to keep records, guns bought that way can't be traced.

With [forty percent](#) of American households owning at least one firearm, an estimated two-hundred million in circulation, and a [Supreme Court](#) on the pro-gun side, it's probably unrealistic to consider tough new restrictions on ownership. But if we feel compelled to do something, here are a few ideas:

- *Outlaw exceedingly lethal firearms.* Assault weapon bans focus on superficial features like the presence of a flash suppressor or hand grip but ignore the real issue: [lethality](#). We must move beyond "feel-good" laws to address characteristics such as projectile ballistics, cyclic rate and accuracy at range. Commonly worn police vests can't defeat high-velocity rounds such as the .30-06, so setting limits strictly on penetration would probably rule out most hunting rifles and all handguns from the .357 on up. It may be possible to develop a point system that could address particularly lethal combinations, such as rapid-firing, semi-automatic shoulder weapons that chamber high-velocity cartridges.
- *Combat interstate gun trafficking.* Unlicensed street peddlers and gangsters from strong-law States like to stock up at [gun shows](#) in nearby, weak-law jurisdictions. Arizona, Nevada and Texas are gateways for guns to California, while Georgia, Florida and Virginia provide the same unwelcome service for New York. One could ban sales at gun shows altogether (the best idea.) If not, the illicit flow can be stemmed by requiring that all transactions at gun shows go through a licensed dealer. That would help assure that buyers are properly identified, their qualifications are checked, and sales records are kept so that recovered guns can be successfully traced.

Gun shows aren't the only problem. Traffickers from States with quantity limits (such as California's one-handgun-a-month) frequently [travel to States](#) that lack restrictions, where they use local straw buyers to acquire guns from dealers. That's a problem that can only be addressed by instituting national purchase limits, and not just on handguns.

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- *Combat in-State trafficking.* There is no such thing as Federal gun registration, and there will never be. By law gun sales records are not centralized, making gun tracing a cumbersome process that requires successive contacts with manufacturers, distributors and dealers. Failed traces, particularly for guns more than a few years old, are common.

Fortunately, States are free to set up their own registration systems. Every State should require that all gun transfers, including those between private parties, go through a dealer and be perpetually recorded on a centralized database. To discourage straw purchase every gun recovered by police should be traced and its most recent purchaser contacted. To discourage street gun dealing strict limits on the number of weapons one can buy should be imposed. False claims of theft by straw buyers and unlicensed street peddlers can be minimized by requiring gun owners to immediately report stolen firearms to police.

- *Redirect ATF towards its regulatory responsibilities.* ATF is the only Federal agency charged with regulating gun dealers and combating gun trafficking. Yet thanks to political pressures most of its law enforcement resources are directed towards other ends. Great effort is expended at “adopting” felon-with-a-gun and armed drug dealer cases from local police for prosecution in Federal court. This distracts agents from breaking up trafficking rings, probing suspicious activities at gun shows and monitoring licensed dealers for signs of corruption.

Politics have paralyzed ATF’s oversight role. For proof look no further than the saga of the agency’s leader, [Michael J. Sullivan](#). Thanks to rabid opposition from the NRA and the gun industry, which accuse him of being an overzealous regulator, [Sullivan remains an “Acting Director,”](#) unconfirmed more than two years into his appointment. Other than for a per diem allowance, his only pay is from his “real” job as United States Attorney for the District of Massachusetts.

Anyone who thinks that the President-elect will have a substantial impact on guns and violence is dreaming. As the expiration of the Federal assault weapons ban demonstrates, powerful political forces on both sides of Congress are committed to making guns as easy to buy as candy. States and municipalities that try to fill the gap face the Supreme Court’s [Heller](#) decision, which enshrined gun possession as an individual right. Our only hope is that under a new Administration ATF will find the courage to enforce the laws and regulations that exist.

Posted 12/22/19

LOOPHOLES ARE LETHAL (PART I)

***Federal gun laws are tailored to limit their impact.
And the consequences can be deadly.***



For Police Issues by Julius (Jay) Wachtel. On December 9, two days after a 9-1-1 caller's abusive ex-boyfriend [gunned down Houston P.D. sergeant Chris Brewster](#), his chief [berated Federal legislators](#) for blocking renewal of the "[Violence Against Women Act](#)" (VAWA):

We all know in law enforcement that one of the biggest reasons that the Senate and Mitch McConnell and John Cornyn and Ted Cruz are not...getting the Violence Against Women Act [reauthorized] is because the NRA doesn't like the fact that we want to take firearms out of the hands of boyfriends who abuse their girlfriends. And who killed our sergeant? A boyfriend abusing his girlfriend.

Full stop. VAWA was never a gun control measure. Enacted in 1994, it tightened domestic abuse laws in areas under Federal jurisdiction, such as tribal lands, and allocated funds for victim restitution, investigation and prosecution (for a detailed analysis click [here](#).) What made Chief Art Acevedo so mad? To get a better grasp of where he was coming from let's take a trip down gun-law memory lane.

On Valentine's Day, February 14, 1929, a crew of Al Capone's goons, including two dressed up as cops, lined up seven rival gangsters and machine-gunned them to death. Five years later the Feds enacted the nation's first set of gun laws, the [National Firearms Act](#), which required the registration of machineguns, silencers, and short-barreled shotguns and rifles.

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Done under the Government's taxation power, the focus on "gangster-type weapons" was thought resistant to Second Amendment concerns. Mission accomplished, right? Alas, in February 1933, even before the NFA took effect, a disaffected citizen used an ordinary gun – a .32 caliber pistol that he bought at a pawn shop – to unleash a barrage at President-elect Franklin D. Roosevelt. Although Roosevelt was spared five others were wounded; one, Chicago Mayor Anton Cernak, succumbed to his injuries.

Roosevelt's near-miss built momentum for going after everyday firearms. Concerned about onerous restrictions, the National Rifle Association stepped in and helped draft the nation's next set of gun laws, the [Federal Firearms Act of 1938](#). It required that gun dealers be licensed, keep records and not knowingly sell to felons. Criminal record checks weren't part of the deal. In the end, other than for handing over their ID, gun store patrons would hardly feel a thing. And if they wished to feel nothing at all, private-party transfers and mail-order sales remained completely off the radar.

Twenty-five years later, on November 22, 1963, a 23-year old man peered out a sixth-floor window of the Texas School Book Depository. He had a rifle by his elbow and a revolver in his pocket, [both purchased by mail order under an assumed name](#). As the motorcade passed by, Lee Harvey Oswald opened fire, mortally wounding President John F. Kennedy and seriously injuring Governor John Connally. One hour later he shot and killed Dallas police officer J. D. Tippit. Two days later nightclub owner Jack Ruby used his revolver to shoot Oswald dead.

One might think that gun laws would be back on the plate. But resistance from the NRA, the gun industry and hobbyists slowed things down. In the end, lawmaking took another five years and two back-to-back assassinations: [of Martin Luther King](#), shot dead on April 4, 1968 by an escaped convict, and [of Robert Kennedy Jr.](#), murdered two months later by a disaffected immigrant. Both killings were accomplished with "ordinary" guns. King's killer used a .30-06 caliber rifle, which he bought at a gun store using an assumed name. Kennedy's assailant, who had no criminal record, got his .22 caliber revolver from an acquaintance.

President Lyndon Johnson signed the [Gun Control Act of 1968](#) into effect four months later. Private gun transactions would continue as-is, no paperwork required, and guns would still be handed over immediately, with no confirmation of one's ID nor a criminal record check. But mail-order sales were barred. Most importantly, the GCA established a class of "prohibited persons" who could not possess guns and to whom they could guns not be legally sold or given: felons, fugitives, persons adjudicated

mentally defective, illegal immigrants, dishonorably discharged veterans, and the few (apparently including Oswald) who had renounced their citizenship.

On March 30, 1981 [John Hinckley fired at President Ronald Reagan](#) with another “ordinary gun” – a .22 caliber revolver. He missed, but his shots badly wounded James Brady, Reagan’s press secretary. Hinckley, who had a record of arrests and mental health problems, [bought the weapon at a pawnshop](#) some months earlier. It was delivered immediately, and, as usual, without a record check.

After a decade-plus of lobbying by James Brady’s wife, Sarah, in November 1993 [the Gun Control Act was amended](#) to impose an interim five-day waiting period on the delivery of handguns. That afforded authorities a crucial if brief window for checking criminal and mental health records. (As provided by the original bill, in 1998 the waiting period was expanded into the current national “[insta-check](#)” [system \(NICS\)](#), which applies to the transfer by dealers of all firearms, including long guns.)

Brady only affects sales by licensed dealers. Private gun transactions thus remained virtually unimpeded. Neither did the law address domestic violence, which was gaining recognition as a major context for gun misuse. Perhaps surprisingly, this concern was promptly addressed. Unsurprisingly, the law’s reach was circumscribed by narrowly defining two key terms: “intimate partner” and “domestic violence.”

- In 1994 legislators addressed restraining orders, which *Brady* ignored. Their product, Section 110401 of the [Violent Crime Control Act of 1994](#), codified as [18 USC 921\(a\)\(32\)](#), prohibits receipt or possession of firearms by “intimate partners” who have been served with a domestic violence restraining order.

Intimate partners are “the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.” ([18 USC 921\[a\]\[32\]](#))

- In 1996 the late [Senator Frank Lautenberg complained](#) that even though “two-thirds of domestic violence murders involve firearms” most spousal and child abusers don’t get convicted of felonies, thus remain unaffected by *Brady*. His proposal to prohibit gun possession by persons convicted of misdemeanor crimes of domestic violence was approved and codified as [18 USC 922\(g\)\(9\)](#).

Crimes of domestic violence are “the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child

in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.” (18 USC 921[a][33])

It’s in these details where we find the explanation for Chief Acevedo’s angry barrage. Arturo Solis, the officer’s killer, [pled guilty in 2015 to assaulting the 9-1-1 caller](#) (the plea agreement, a State matter, reportedly barred him from having guns.) One year later Solis was arrested for harassing her with dozens of text messages. However, since his victim didn’t clearly fit any of VAWA’s protected classes (not a present or former spouse, etc.) Solis remained free, at least under Federal law, to buy and have guns. (That’s not just our feeble opinion. Check out the statute’s nightmarish [prosecutorial guide](#).) That loophole drove tinkerers in the lower, “Blue” chamber to insert language that [broadened the definitions](#) of “intimate partner” and “crime of domestic violence”:

- *Intimate partner* would include “a dating partner or former dating partner.” Bottom line: past or present boyfriends or girlfriends who are the subject of a domestic violence restraining order would be ineligible to buy or possess firearms.
- *Crimes of domestic violence* would no longer require an actual or attempted assault. Stalking would suffice. Bottom line: a misdemeanor conviction for stalking would prohibit the purchase or possession of firearms.

Naturally, expanding the roster of bad guys (violent domestic abusers *are* mostly men) would substantially enlarge the roster of prohibited gun possessors. For the “Reds” who control the Senate that’s a big no-no. That’s why VAWA’s [“new, improved” version](#) has languished in the upper house since April.

Really, as your retired-ATF-agent-*cum*-blogger well knows, one could argue the complexities and limitations of Federal firearms laws until the cows come home. Thanks to the gun lobby and their subservient lawmakers, when it comes to regulating guns [it’s always been about loopholes](#). We’ll have more to say about that (and even bring in the States for a spanking) next year, in Part II. But for now let’s give Chief Acevedo [the last word](#):

My officers are not a serial number to me...They're my family so when they go down I get pissed...A 32-year-old man should not be dead and it's not just him, it's every day in this country. If you don't understand the emotion I say check your pulse because you don't understand me or you don't understand this profession.

Posted 1/4/20

LOOPHOLES ARE LETHAL (PART II)

Who can buy a gun? Indeed, just what is a gun? Um, let's pretend!



For Police Issues by Julius (Jay) Wachtel. [Part I](#) began with the bitter laments of Houston Police Chief Art Acevedo, who denounced politicians of the Red persuasion for assiduously protecting a loophole that allows domestic abusers – including an eventual cop-killer – to skirt Federal firearms regulations.

Sometimes, though, the aggrieved party is also Red-tinged. Like, say, Florida Governor Ron DeSantis. Here's [what he said](#) two days after a foreign military student [unleashed a barrage](#) of handgun fire at a Pensacola naval station, killing three airmen and wounding eight: “That’s a federal loophole that he took advantage of. I’m a big supporter of the Second Amendment, but the Second Amendment applies so that we the American people can keep and bear arms. It does not apply to Saudi Arabians.”

DeSantis sports an “A” rating from the NRA, [which endorsed him](#) in the Governor’s race. He’s also a former Republican member of the House, thus presumably no fan of gun control. Yet it was precisely the loosening of such laws – done at the behest of his former colleagues, no less – that would one day let a Saudi trainee legally [waltz into a gun store and buy](#) the lethal .45 caliber Glock he used in the massacre.

In June 1968 “The Omnibus Crime Control and Safe Streets Act” was passed. Among its provisions was a law ([Title VII, sec. 1202\[a\]\[5\]](#)) prohibiting illegal aliens, meaning persons unlawfully in the U.S., from acquiring or possessing firearms. Several months later, the [1968 Gun Control Act](#) would go on to forbid gun dealers and private

individuals from transferring handguns to non-residents, meaning persons who lived in other states ([18 USC sec. 922\[b\]\[3\]](#). Long guns can go to residents of adjoining, “contiguous” States.) Lawfully present non-immigrant aliens (i.e., visitors) weren’t mentioned. To keep them from being excluded as potential gun customers, [a regulation was then enacted](#) stipulating that those who had been present in the same state for ninety consecutive days were “residents” for the purpose of buying a gun.

Then something really bad took place. On February 23, 1997 [a Palestinian visitor opened fire](#) on the observation deck of the Empire State Building, killing one and wounding six before committing suicide. Ali Hassan Abu Kamal had been in the U.S. about two months. He had spent all his time in New York except for a brief detour to Florida, [a gun-friendly state notorious for helping](#) the Big Apple’s residents circumvent their state’s restrictive firearms laws. Listing a motel room as his residence, Abu Kamal quickly secured a Florida I.D. card, then promptly used the document to buy a Beretta pistol in a Florida store.

Alas, at the time the only required “proof” that an alien had lived in a State for ninety days was their word. In reaction to the shooting, ATF promptly implemented [a regulatory fix](#) requiring that aliens buying guns provide documentary proof of their ninety-day tenure using utility bills, etc. A few months later [Federal law was amended](#) (July 21, 1998, pg. 16,493) to specify that aliens who were *not* “representatives of foreign governments” or “foreign law enforcement officers” could only acquire guns if they had been “admitted to the United States for lawful hunting or sporting purposes” or if they presented “a hunting license or permit lawfully issued in the United States” ([18 USC 922\[d\]\[5\] and \[y\]\[2\]](#)). The regulation imposing a ninety-day residence rule remained in effect.)

Considering what had happened, allowing *any* non-immigrants to acquire guns for *any* reason might seem excessively obliging. But legislators on the “Red” side of the aisle were concerned about barring potential customers from the gun marketplace. Here’s how the bill’s “Blue” author, Senator Dick Durbin (D-Ill) balanced it all out:

We tried to imagine the exceptions of those coming...on nonimmigrant visas who might need to own a gun for very real and legal purposes. Here are the exceptions...if you are someone who has come to the United States for lawful hunting...that person is exempt. That person may purchase a gun while here for that purpose....

Senator Larry Craig (R-Idaho) was pleased by the accommodation:

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...I appreciate the willingness of the Senator from Illinois to modify his amendment. I think it is necessary and appropriate, and certainly the public understands that hunting is a lawful right and opportunity in this country. Certainly, foreign citizens that are here and go through the legal and necessary steps should be allowed that opportunity and to acquire a gun for that purpose while here is necessary and fitting.

In time, memory of the Empire State tragedy faded. In June 2012, a few months before Governor DeSantis was first elected to the House, Attorney General Eric Holder (he, of the very “Blue” persuasion) [abolished the ninety-day residence test](#) for legal aliens who wished to buy guns. Henceforth, “an alien lawfully present in the United States acquiring a firearm will be subject to the same residency and proof of residency requirements that apply to U.S. citizens.” His reasoning, “that the State of residence requirement...cannot [legally] have two different constructions—one that applies to U.S. citizens and another that applies to lawfully present aliens” supposedly reflected the best legal judgment. That it might have also signaled political concerns – it was, after all, an election year – we’ll leave for others to assess.

And that wasn’t the end of it. Holder’s move was followed by an [ATF ruling](#) that a hunting license “does not have to be from the State where the nonimmigrant alien is purchasing the firearm.” Ergo, another loophole. It seems that Governor DeSantis was wrong. The Second Amendment indeed applies to everyone, legal aliens included. (For another example of the unintended consequences of liberalizing gun acquisition by visitors to the U.S., click [here](#).)

For another, even more tangible of how loopholes reproduce let’s turn to...ghosts. Guns, that is. Assembled from parts available online and the secondary market, so-called “ghost guns” cannot be readily traced. Increasingly common – [as many as thirty percent](#) of firearms seized by ATF in California are reportedly “ghosts” – they are of special appeal to criminals and those who want weapons such as assault-style rifles and machineguns that may be illegal under State or Federal law.

How did the problem of ghost guns come about? Blame a loophole. According to [ATF](#) and [Federal law](#), the core of a firearm is its “frame or receiver.” Exactly what these are was left for a regulation to specify. Here’s how [27 CFR 478.11](#) responded to the challenge:

Firearm. Any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon....

Firearm frame or receiver. That part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

Apparently, these definitions were too broad to satisfy the politicians. Perhaps they would have discouraged hobbyists and tinkerers. So ATF stepped in. Over time it settled on what's been called the “[eighty-percent rule](#),” meaning eight-tenths of the way to a fully operational firearm. An ATF website [graphically suggests](#) what it takes to hit that threshold. We filmed two pictures. On the left, lacking “holes or dimples for the selector, trigger, or hammer pins,” is a non-gun. On the right is a “partially machined” version, which ATF classifies as a firearm.



Hobbyists and felons can legally buy “blanks” such as the one on the left online and by mail-order, no problem. These items aren’t subject to the controls imposed by Federal law until they’ve been tweaked. Let’s be honest and call this for what it is: a purposely crafted loophole. Alas, it’s [enabling urban gangs](#) to build up their arsenals of pistols and rifles in California, a state with some of the strictest gun control laws in the nation. And the consequences have been all too predictable. Consider, for example, [the gunning down earlier this year](#) of a California Highway Patrol officer (two colleagues were wounded) by a convicted felon using an AR-15 style rifle that was built from a legal blank and legally-available parts.

Remember those loopholes from [Part I](#)? Say, about domestic abusers? In our polarized, politically-fraught land, when it comes to guns, pretending to regulate is the over-arching rule. Houston Police Chief Art Acevedo, Florida Governor DeSantis, and friends and family members of the late CHP officer Andre Moya would likely agree.

Posted 8/8/22

LOOPHOLES ARE (STILL) LETHAL

Massacres prove no match for America's intractable gun culture



For Police Issues by Julius (Jay) Wachtel. Here's a verbatim extract from [a recent article](#) in the *Los Angeles Times*. We inserted two blanks. Can you fill them in?

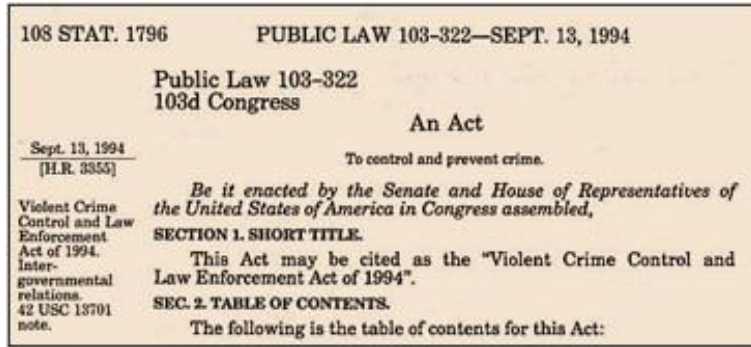
Without major changes in ____ and public policy, uncounted tens of thousands of people will die each year, with devastating results on their families and their friends. That's part of the cost of the ____ culture, which, thus far, Americans have been willing to accept.

You'll find the answers at the end. But for now, let's assume it's about guns. After all, in 2020, the most recent year for which CDC offers comprehensive statistics, [more persons were shot dead](#) in the U.S. (45,222) than, say, were killed in traffic accidents (40,698). What's more, only a tiny sliver of gun fatalities – 535, about 1.2 percent – were “accidents.” Nearly all were intentional: suicides comprised about 53 percent (24,292) and homicides about 43 percent (19,384).

Bottom line: guns are used in an awful lot of on-purpose mayhem. Yet they're far more loosely regulated than driving, which really is an essential component of everyday life. But at a time when life is consumed by massacres, and fear of massacres, our seemingly best-intentioned leaders continue building on a platform of pretend.

Pretend? Only days ago, as the country reeled from the slaughter in Highland Park, Vice-President Kamala Harris [called for stern action](#): “We have more to do. We have more to do. Congress needs to have the courage to act and renew the assault weapons ban.” Ditto, Illinois Governor J.B. Pritzker:

We urgently need federal regulation on the weapons of war and high capacity magazines that are used only for mass murder. Illinois is not an island, and even with ... some of the strictest gun laws in the nation, our state is only as safe as the state with the weakest laws — many of which border Illinois.”



In effect between September, 1994 and September, 2004, the original Federal assault weapons ban – it lapsed as prescribed after ten years – outlawed, among other things, semi-automatic rifles that could accept a detachable magazine and had two or more of five features

(click [here](#) for Public Law 103-322, 103d Congress and [here](#) for a brief version):

- (i) a folding or telescoping stock;
- (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
- (iii) a bayonet mount;
- (iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor;
- (v) a grenade launcher.

Some pistols and shotguns were also outlawed, as were magazines and other feeding devices that could hold more than ten rounds of ammunition. A short list of popular firearms that broke the rules were banned by name. Among them were the civilian versions of the Uzi, Colt AR-15 and Intratec TEC-9 semi-auto rifles. However, banned guns and magazines that were legally on hand on the law’s effective date could continue to be possessed and transferred, ad infinitum.

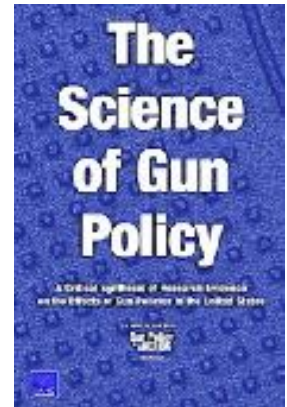
Did the ban do any good? “Changes in US mass shooting deaths associated with the 1994-2004 federal assault weapons ban: analysis of open-source data” (*Journal of Trauma and Acute Care Surgery*, January, 2019) [analyzed 44 mass shootings](#) (four or more fatalities) that took place between 1981 and 2017. Its conclusion, that “mass-shooting fatalities were 70% less likely to occur during the federal ban period” suggests that the ban was effective. Indeed, [its authors recently reported](#) that the ban could have prevented “314 of the 448 mass shooting deaths that occurred” during non-ban periods. Yet they nonetheless cautioned against drawing an explicit cause-and-effect relationship:

...our analysis cannot definitively say that the assault weapons ban of 1994 caused a decrease in mass shootings, nor that its expiration in 2004 resulted in the growth of deadly incidents in the years since. Many additional factors may contribute to the shifting frequency of these shootings, such as changes in

domestic violence rates, political extremism, psychiatric illness, firearm availability and a surge in sales, and the recent rise in hate groups.

Put simply, there was too much else going on. Statistically speaking, the “variables” that would need to be taken into account to credit the law were simply too unruly to measure and incorporate.

In “Effects of Assault Weapon and High-Capacity Magazine Bans on Mass Shootings” (*Gun Policy in America*, Rand Corporation, 2022) academics [reviewed studies about the effects of assault weapons bans](#) on mass shootings. What they discovered seems hardly conclusive. For example, one author credited State bans with reducing mass shooting deaths, including deaths from school shootings. But bans didn’t seem to significantly reduce the frequency of mass shootings. Again, there were a bucketful of methodological concerns. In all, the reviewers found there was “inconclusive evidence for the effect of assault weapon bans on mass shootings.”



Your author is deeply skeptical that the original Federal ban, or its proposed replacement, or the State bans, could substantially reduce mass shootings. After all, America has long been awash in guns of all kinds, and unlicensed peer-to-peer transactions are commonplace. Banned weapons that were in the marketplace and in citizens’ possession when the 1994 ban was enacted were grandfathered in. Most significantly, the elaborately-crafted bans have virtually begged to be circumvented. Let’s self-plagiarize from “[Reviving an Illusion](#)”:

Colt renamed the AR-15 the “Sporter”, removed its flash suppressor and bayonet lug and reworked the magazine so that it could hold only ten rounds. Soon everyone was stripping weapons of meaningless baubles and producing essentially the same guns as before. When the ban, which carried a ten-year sunset clause, came up for re-approval in 2004 it died quietly.

Ten years later, when time came to renew the so-called “ban”, even the vociferously anti-gun Violence Policy Center [saw little reason to endorse a re-do](#):



The 1994 law in theory banned AK-47s, MAC-10s, UZIs, AR-15s and other assault weapons. Yet the gun industry easily found ways around the law and most of these weapons are now sold in post-ban models virtually identical to the guns Congress sought to ban in 1994. At the same time, the gun industry has aggressively marketed new assault-weapon types such as the Hi-Point Carbine used in the 1999 Columbine massacre that are frequently used in crime. Reenacting this eviscerated ban without improving it will do little to protect the lives of law enforcement officers and other innocent Americans.

According to the Giffords Law Center, seven States and the District of Columbia [presently ban assault weapons](#). California, Connecticut, New York, and D.C. supposedly have the strictest provisions. Still, each essentially follows the original Federal model. For example, [California](#) offers a similar generic definition of an illegal assault weapon. It also bans a long list of guns by name. In an attempt to up the game, it prohibits semi-auto rifles that can accept a detachable magazine and have just *one* (not the Fed ban's minimum *two*) extrinsic feature, such as a pistol grip or thumbhole stock. California also bans magazines and feeding devices for any gun that can hold more than ten rounds (click [here](#) and [here](#).)

Problem is, beyond banning very large calibers (.50 and above), neither the Feds nor any State have paid any attention to the underlying reason why assault weapons are so lethal: [ballistics](#). *Not one*. Let's self-plagiarize from [our 2015 op-ed](#) in the *Washington Post*:

One assumes that assault rifles were picked on [by the Federal ban] because they are particularly lethal. Key attributes that make them so include accuracy at range, rapid-fire capability and, most importantly, fearsome ballistics. In their most common calibers – 7.62 and .223 – these weapons discharge bullets whose extreme energy and velocity readily pierce protective garments commonly worn by police, opening cavities in flesh many times the diameter of the projectile and causing devastating wounds.

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Of course, getting hung up on caliber would likely outlaw all semi-automatic rifles beyond .22 rimfire. That, as we mentioned in [“A Ban in Name Only,”](#) is how the United Kingdom reacted to England’s 1987 [Hungerford Massacre](#). But like we then wrote, “we’re not Britannia, where a sense of community still prevails.” Acting promptly after the Federal ban, Colt tweaked its AR-15’s external configuration and rebranded it the “Sporter.” And yes, the weapon kept chambering the same powerful .223 caliber cartridge used by military AR-15’s.



Other manufacturers quickly followed suit. For example, Norinco rebranded its civilian version of the vicious AK-47 rifle, which fires the lethal 7.62mm. projectile. One of their tweaked products (see left), a model 56-S semi-automatic rifle, was used by Patrick Purdy to murder five schoolkids and wound thirty-two in the January 17, 1989 [Stockton, Calif. schoolyard massacre](#). Purdy had legally purchased the rifle in Oregon.

Purdy’s horrific act assured the prompt enactment of California’s assault weapons ban, which was then being drafted. Its long list of banned guns specifically includes the Model 56-S, along with the Colt AR-15 and so forth. Not by caliber, though – just by name. Twenty-six years later, when [Syed Farook and Tashfeen Malik](#) gunned down fourteen and wounded twenty-two in San Bernardino, Calif.,



they used two .223 caliber AR-15 variants: a DPMS Panther Arms A15 (left) and a Smith & Wesson M&P15 (right), which a friend bought for them at a California gun store. All “Panthers” were placed on the [Golden State’s banned list](#), and Smith & Wesson no longer produces the M&P15. But don’t fret! Check out our introductory graphic. That’s [S&W’s “California compliant” Volunteer!](#) Per the state ban, its capacity is limited to ten rounds (natch, plus one in the chamber), but it fires the same deadly .223 NATO round as the fully automatic AR-15 your writer lugged around in Saigon, um, fifty-four years ago.

So what about [New York State’s](#) “tough” law? Like California’s ban, it prohibits semi-auto rifles that can accept detachable magazines and have at least one in of a list of prohibited features, such as “a folding or telescoping stock, a pistol grip that protrudes

conspicuously beneath the action of the weapon, a thumbhole stock: and so forth. Here, for example, is a “New York legal” version of the Bushmaster XM-15 .223 caliber semi-automatic rifle that [Payton Gendron used to murder ten and wound three](#) at the Tops market in Buffalo on May 14. How does it get away with that pistol grip? Its magazine isn’t detachable! (As it turns out, Gendron used readily available parts to illegally modify the gun to accept a large-capacity detachable magazine.)



So how does that [proposed replacement](#) for the Federal assault weapons ban live up to its “new and improved” label? Just like those “tough” bans in California and New York, the presence of only *one* “prohibited feature” (such as that nasty pistol grip) would require the gun to have a fixed magazine.

Problem solved!

Well, not really. A far more helpful step would require an honest assessment of the factors that drive firearms lethality. Its impact isn’t just felt by “ordinary” citizens. “[A Lost Cause](#)” mentioned that police officers must contend with evildoers who are equipped with firearms whose projectiles readily defeat ballistic garments normally worn on patrol. That, indeed, may be the fundamental reason why cops seemed so hesitant to advance on the madman who used an assault rifle to stage [the recent massacre at Uvalde’s Robb Elementary School](#). So what can be done? Prior posts (see, for example, “[Reviving an Illusion](#)” and “[Going Ballistic](#)”) suggest that firearms could be subjected to a point system that scores factors which affect lethality, including accuracy, ammunition capacity, ease of reloading, cyclic rate and, most importantly, ballistics. Guns that score too high could be banned.

And *that* takes us back to our opening challenge. It’s from [a recent article](#) in our hometown newspaper about the distractions caused by increasingly elaborate in-vehicle digital technology. The answers are “driver behavior” and “infotainment.” Of course, controlling the former by imposing limits on the latter could prove a very tough sell. Kind of like slamming the brakes on guns.

After all, we really *aren’t* Britannia.

Posted 11/19/17

MASSACRE CONTROL

What can be done to prevent mass shootings?

By Julius (Jay) Wachtel. Please forgive us if this essay seems a bit more prescriptive than what *Police Issues* normally offers, but it's only been a few days since an angry, heavily armed man [opened fire in a rural Texas church](#), leaving twenty-six dead and more than a dozen injured, many critically.

It's not to make light of this horror to point out that within hours of last month's reveals about [Hollywood Harvey](#), waves of similar accusations engulfed prominent figures on both sides of the Atlantic, leading a growing number of highly-placed "untouchables" to lose lucrative contracts, past honors and memberships in influential groups and making them vulnerable to unwelcome non-sexual advances by aggressive prosecutors.

So where's the follow-through when dozens of innocents are gunned down? That's the question we should have asked after [Las Vegas](#). And [Orlando](#). And [San Bernardino](#). And [Sandy Hook](#). And [Aurora](#). And on and on. (Click [here](#) for CNN's comprehensive list of mass shootings.) To be sure, one might argue that every killer was appropriately punished. Excepting a few such as James Holmes, who drew life without parole for murdering a dozen movie-goers in Aurora, Colorado, mass shooters have usually perished at their own hands or those of the police.

When it comes to violent crime, it really *is* all about prevention. Poor behavior is far less likely when one has the capacity to reason and a lot to lose. Publicly shaming Hollywood Harveys affords a lot of welcome support to victims of sexual misconduct. Lasting cultural reform seems just around the corner. In contrast, calling it a day (as we usually do) after yet another unhinged killer commits suicide or is killed by a cop seems wildly inadequate.

So far, though, the White House has played it close to the chest. Sure enough, President Trump called the Las Vegas shooter "[sick](#)" and "[demented](#)." But our Commander-in-Chief otherwise declined to show his hand. Gun control? "At some point perhaps that [discussion] will come. That's not today." [His reticence was mirrored](#) by Senate Majority Leader Mitch McConnell: "Look, the investigation has not even been completed, and I think it's premature to be discussing legislative solutions, *if there are any*." (That's our emphasis, by the way.)

Then Texas happened. Once more, President Trump [attributed the massacre to mental illness](#): “Mental health is your problem here. This was a very, based on preliminary reports, this was a very deranged individual, a lot of problems over a long period of time.” This time, though, he also addressed gun laws. In his view, [tougher restrictions would not have helped](#):

...there would have been no difference three days ago, and you might not have had that very brave person who happened to have a gun or a rifle in his truck go out and shoot him, and hit him, and neutralize him. I can only say this, if he didn't have gun, instead of having 26 dead, you would have had hundreds more dead. So that's the way I feel about it...You look at the city with the strongest gun laws in our nation is Chicago, and Chicago is a disaster, a total disaster....

This post will outline a variety of approaches to prevent mass shootings. We'll begin with the two championed by our Twitterer-in-Chief, then move on to address our long-running preoccupation with firearms lethality.

Keeping firearms from the mentally ill

Fear of punishment can't be expected to deter those whose capacity to reason is seriously impaired. Skimming the personal histories of mass shooters suggests that they are indeed a flaky bunch. Consider, for example, the [title](#) of a recent New York Times piece about the Texas shooter: “In Air Force, Colleague Feared Church Gunman Would ‘Shoot Up the Place’.” Or the [headline](#) that crowns a CBS News report on the Orlando gunman: “James Holmes saw three mental health professionals before shooting.”

Mental problems have beset at least a few so-called “terrorists.” Consider, for example, [Ahmad Rahami](#), the prototypical holy warrior who was recently convicted of planting improvised bombs in New York City, injuring several dozen. Although he seemed normal as a youth, by the time he reached his late twenties Rahami [had become sullen and aggressive](#), leading to repeat entanglements with the law, once for violating a restraining order and another for stabbing a relative.

[A detailed 2016 study](#) for the Department of Justice reported that forty-eight percent of “solo” mass killers (four or more victims) had a history of mental illness (p. 23). But some experts [caution against](#) equating one with the other. [A recent Congressional report](#) concedes that most mass killers “arguably suffered from some form of mental instability, at least temporarily.” However, many didn't meet the clinical definition of “psychotic” or “hallucinatory” and lacked significant encounters with police or the mental health system (p. 30).

Therein lies the crux of the dilemma. [Federal law](#) prohibits possession of firearms by any person who has been “*adjudicated* as a mental defective” or “*committed* to a mental institution.” (Emphases ours.) Prior judicial determinations are also required under State laws (e.g., [Arizona](#)). So the law’s present reach is at best limited. What’s more, most states don’t require background checks [for gun transfers between private parties](#); even if someone is of record as mentally ill, enforcement is uncertain.

What about early intervention? “[A Stitch in Time](#)” suggested that police officers are well placed to identify candidates for mental health services. Rahami might have benefitted from such early attention. Ditto for [Kevin Neal](#), the Northern California man who went on a rampage earlier this week, gunning down five including his wife and wounding several others before deputies shot him dead. His guns included several “home-made” [AR-15 type .223 caliber rifles](#) whose sale was never registered in California, where all gun transfers (including between private parties) must be recorded. Neal faced assault and robbery charges, was under a restraining order for allegedly stabbing a girlfriend and striking her mother, and had been ordered by a judge to surrender his guns because neighbors had repeatedly complained of his reckless gunfire and harassment. But he still wasn’t considered sufficiently deranged to be forcibly committed.

What could be done?

- Compel aggressive citizens to mental health treatment and make it part of the official record
- Extend legal prohibitions on gun possession to persons who have been treated for mental illness although not formally adjudicated
- Subject all gun transfers, including between private parties, to a background check
- Prohibit private citizens from assembling firearms from parts, or require that such weapons be registered

To be sure, these measures are inherently intrusive and could conflict with Federal and State laws and constitutional provisions. They are also at odds with some sentiment in the mental-health community. [According to a major advocacy group](#), “most people with mental illness are not violent” and barring them from guns would be counter-productive:

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Creating new federal or state gun laws based on mental illness could have the effect of creating more barriers to people being willing to seek treatment and help when they need it most. Solutions to gun violence associated with mental illness lie in improving access to treatment, not in preventing people from seeking treatment in the first place.

Arming private citizens

After massacring more than two dozen parishioners, [Devin Kelley](#) left his Ruger AR-556 .223 caliber rifle (an AR-15 clone) in the church and stepped out brandishing two handguns. That's when an armed citizen opened fire with a rifle, wounding Kelley twice. After a wild car chase, Kelley shot himself dead. Although President Trump's claim that "you would have [otherwise] had hundreds more dead" seems wildly overblown, private citizens brought the episode to an end, safeguarding the lives of other persons and police.

It's to be expected that in a society as awash with guns as the U.S. interventions by armed citizens will occur with some frequency. A pro-gun website, [Crime Research](#), tracks such incidents, or at least those that turn out well. Those that don't are fodder for [groups with opposing views](#). Indeed, past posts have mentioned significant goofs by armed "good guys." In one, [a well-meaning armed citizen](#) tried to take on the [Tacoma Mall shooter](#) and lost – badly. And there was the Johnny-come-lately armed citizen who mistakenly [went after the wrong person](#) at the 2011 Tucson massacre. (Thankfully, unarmed civilians apprehended the real shooter.)

Academics have long debated the value of arming ordinary folks. [A 1999 paper](#) by John R. Lott Jr. (a well-known booster of gun carry) and William M. Landes reported significantly fewer multiple victim shootings where permissive gun carry laws were in effect. In his [seminal pro-gun book](#), "More Guns, Less Crime," Professor Lott went so far as to conclude that "without concealed carry, ordinary citizens are sitting ducks, waiting to be victimized" (p. 197). As one might expect, anti-gunners [have risen to the challenge](#).

For a "fair and balanced" assessment we turn to [an exhaustive 2005 meta-review](#) by a CDC-affiliated working group. Its members examined fifty-five studies that assessed the influence of gun laws on violence, including four that addressed the effects of permissive ("shall issue") concealed-carry statutes. (Eight papers including [one co-authored by John Lott](#) were excluded for the same methodological flaws that have some academics to criticize his alleged pro-gun bias.)

No matter. After a substantial effort, the task force concluded, in effect, that no conclusion was possible:

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Based on findings from national law assessments, cross-national comparisons, and index studies, evidence is insufficient to determine whether the degree or intensity of firearms regulation is associated with decreased (or increased) violence. (p. 59)

“[Do Gun Laws Work?](#)” arrived at a similarly unsatisfying end. We initially found that as the [strength of state gun laws](#) increased, [homicide rates](#) significantly declined ($r = -.366^*$). But when differences in poverty were taken into account, the association between gun laws and homicide became statistically non-significant ($r = -.196$). (On the other hand, the relationships between gun law strength/gun deaths and gun law strength/gun suicides remained substantial.)

Arming private citizens raises some critical issues:

- Psychological suitability. Would expanded carry laws imperil public safety by encouraging mentally unstable persons to “pack”?
- Effects on the police workplace. Can armed citizens help? Would they be readily distinguishable from criminals? Or are they more likely to disrupt the police response, adding needless complexity to fluid and uncertain situations?

One might tackle such concerns by revisiting the concept of a citizens militia. Certain gun privileges could be conditioned on membership in an organized, vetted and well-trained citizen group. Excluding marginal characters wouldn’t be easy, though, and require a process that resembles what’s presently done when hiring police.

Limiting gun lethality

Prior posts (see, for example, “[Bump Stocks](#)” and “[A Ban in Name Only](#)”) have commented about this concern in considerable detail, so here we’ll summarize aspects that seem most pertinent to mass shootings.

Mass killers have nearly always used “assault weapons,” usually militarily-derived semi-automatic rifles with large magazine capacities and fearsome ballistics. AR-15 clones in .223 caliber have proven especially popular, featuring in the recent Northern California massacre as well as those in Texas, Las Vegas, Orlando, San Bernardino, Sandy Hook and Aurora. Lethally equivalent AK-47 clones in 7.62 caliber were used by the shooter who wounded four at a [Congressional baseball practice](#) in June and the sniper who murdered five officers and wounded nine [while perched in a Dallas office building](#) last year.

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These weapons share particularly lethal features. Large magazine capacities reduce the need to reload. A high cyclic rate allows quick discharge of a volley of rounds. Accuracy at range lets snipers deposit accurate fire from a distance. Yet the possibly most significant characteristic, ballistics, is seldom mentioned even by the most rabid anti-gunners. High-velocity centerfire rifle projectiles such as .223 and 7.62 calibers create temporary cavities in flesh that are many times the bullet diameters, shattering bones and pulverizing organs and blood vessels (Vincent Di Maio, “Gunshot Wounds,” Chapter 7, summary [here](#)).

We’ve repeatedly warned, most recently in “[Bump Stocks](#)”, that rounds fired by such weapons [easily penetrate the ballistic vests](#) normally worn by street cops. That’s how two Palm Springs (Calif.) police officers died last October, struck by .223 caliber rounds fired through a home’s front door. [Table 38](#) of the UCR’s latest “Law Enforcement Officers Killed and Assaulted” report quantifies this threat in stark terms. Rifle fire killed all but one of the twenty-two officers slain between 2007-2016 with rounds that penetrated body armor. That’s why police have “militarized,” deploying armored vehicles and adopting tactics that seem more attuned to combat zones than our nation’s cities.

So what can be done? “[A Ban in Name Only](#)” pointed out the futility of reinstating the Federal assault weapons ban. Cannily devised to avoid upsetting the firearms industry and gun enthusiasts, it made much hash of irrelevant external baubles such as handgrips and flash suppressors while allowing substantial magazine capacities and ignoring ballistics altogether. For a study in contrast consider [England’s reaction](#) to the 1987 Hungerford massacre. One year after sixteen persons were gunned down by a deranged man wielding a handgun and two rifles Great Britain banned all semi-automatic rifles beyond .22 rimfire, a prohibition that still stands.

Of course that seems a very far stretch in the U.S., where massacres (their victims are invariably ordinary citizens and street cops) draw far less of a response than the sexual peccadillos of the wealthy and famous. With that in mind, here are a few options:

- Devise a point system that scores firearm lethality. Factors to consider include ammunition capacity, cyclic rate, accuracy at range and, of course, ballistics. Guns whose scores exceed specified thresholds could be subject to a range of controls, including limits or outright prohibitions on manufacture, possession and transfer.
- Require that all gun transfers to private parties, or all that involve firearms whose lethality exceeds a specified threshold, go through a licensed dealer and be

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subject to a criminal records check.

- Prohibit the marketing of parts that private persons can use to assemble firearms while circumventing a records check. (For more on that click [here](#) and [here](#)).

Your faithful blogger is ready to help (*pro bono*, no less) a public university or major nonprofit assemble a public symposium on mass shootings. Sure, it's politically chancy. But given what keeps happening, it's really, really hard to think of a more pressing concern. Here's hoping that there will be a taker!

Incidentally, this also happens to be our three-hundredth blog post. Pop a cork!

Posted 9/26/10

“MODERNIZATION” OR “EMASCULATION”?

*A deceptively entitled bill seeks to weaken
what little gun dealer oversight there is*

By Julius (Jay) Wachtel. Imagine having been an agent for the renowned Bureau of Prohibition, those Al Capone-busting investigators whose intrepid work was glorified in the wildly popular TV series, “[The Untouchables](#).”

Then imagine being an ATF agent today. As public memory fades of the the horrific events that led to passage of the [Gun Control Act of 1968](#) – the assassinations of Dr. Martin Luther King, Jr. and Senator Robert Kennedy– ATF has become a convenient whipping boy for politicians of all stripes. With a majority of the Supreme Court supping at the same table as the NRA, [the President’s promises](#) to institute record checks at gun shows and resurrect the assault weapons ban seem to have the same chance of coming to pass as the ATF has of gaining a permanent Director, a position that’s been vacant since 2006 when it became subject to Senate confirmation.

But we digress. Imagine your astonishment some months ago when [Senate Bill 941](#), a bipartisan proposal enticingly named “Bureau of Alcohol, Tobacco, Firearms, and Explosives Reform and Firearms Modernization Act of 2009” popped out of the blue.

Turning the page, you found that its very first section, 101, seems to propose giving ATF *more* power, not less. To date the agency’s only tool for disciplining wayward gun dealers has been to revoke their license. But under s. 941 there would also be fines and suspensions. On closer look, though, these new options seem mild and the exceptions many. Distinctions are made between “minor” and “serious” transgressions, and taking adverse action in even the former requires proof of “willfulness.”

Your heart skips a beat, as you know quite well what “willful” did to the GCA.

When the Gun Control Act of 1968 [was first enacted](#) the term “willful” appeared only in section 923(d)(1), an innocuous provision about qualifying for a dealer’s license. That changed with passage of the NRA-sponsored “[Firearms Owners Protection Act of 1986](#).” By embedding numerous instances of “willful” throughout the GCA (without, however, actually defining it) it sought to limit ATF’s ability to go after crooked dealers, either criminally or administratively. Here’s a comparison between the [original](#) and [amended](#) versions of section 923(e), which governs revocations:

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Original: “The Secretary may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter....”

As modified: “The Attorney General may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has *willfully* violated any provision of this chapter or any rule or regulation prescribed by the Attorney General under this chapter....”

Still, “willfully” didn’t prove to be an absolute bar. In your blogger’s experience, evidence that dealers concealed or otherwise disguised transactions was usually enough to establish willfulness and go after them criminally. Ultimately the Supreme Court stepped in. In [Bryan v. U.S.](#), a prosecution for unlicensed gun sales, it ruled that the term requires proving that an accused thought they were acting illegally, although not necessarily in violation of a specific law.

That’s the ambiguity that section 103 of the [ATF Modernization Act](#) seeks to correct:

...For purposes of this subsection [[923\(e\)](#)], relating to licensing proceedings] the term “willfully” means, with respect to conduct of a person, that the person knew of a legal duty, and engaged in the conduct knowingly and in intentional disregard of the duty.

ATF would have to prove that a licensee was intentionally flouting a specific law or regulation before they could be sanctioned. Aside from the tax codes, that level of intent is rarely required in the law. It really does make ignorance an excuse. And that’s not the only mischief that s. 491 would cause.

- [Section 101\(b\)\(ii\)](#) stipulates that “...violation of a provision of this chapter with respect to 2 or more firearms during a single transaction shall be considered a single violation of the provision.” If willfully pushing multiple guns out the back door counts the same as one, then why stop at one?
- [As originally enacted](#), GCA section 922(m) made it unlawful for licensees “to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record....” FOPA eventually drained most of the sting, reducing the penalty from a felony to a misdemeanor even in instances of false entry ([see 924\[a\]\[3\]](#)). Section 107 of the Modernization Act would increase the wiggle room, changing “false entry” to “*materially* false entry,” “appropriate entry” to

“materially significant entry,” and “properly maintain” to, simply, “retain custody of.”

[Decades of deregulation](#) have threatened the country’s economic stability and endangered the health and well-being of its citizens. In 2004 the Justice Department, ATF’s new home, issued a [report](#) severely chastising the hopelessly overburdened agency for its infrequent and superficial inspections of gun dealers. But instead of urging a substantial increase of staff it recommended that inspectors “streamline” their work. Just how much “streamlining” would be necessary was suggested in a [2007 article](#) in *Time*, which calculated that it would take ATF’s 600 firearms inspectors *seventeen years* to get around to every gun dealer.

If anything, things have gotten worse. For an example of the current regulatory climate look no further than [Shawano Guns](#). Despite years of misconduct, ATF admonishments and findings by a hearing officer and, on appeal, a District Court judge that it deserved to lose its license the Milwaukee-area gun store remained open. And when ATF finally said “no more” (see video clip) and demanded that Shawano shut its doors the same judge who once found against the store ruled that it could remain in business pending further appeals. And if that doesn’t work the owner’s nephew is waiting in the wings to take over the store, in which case everything would return to square one.

At least there’s no question about what the “modernization” crew intends. Giving ATF the illusory “authority” to levy minuscule fines and brief suspensions is nothing more than a ruse to distract from the “modernization” bill’s real purpose: to diminish, for a bit of political gain, whatever influence the beleaguered agency still exercises over the firearms industry, the public interest be damned.

Senator Mike Crapo (R – ID) and his thirty-seven cosponsors ought to be ashamed.

Posted 6/24/18

NO ONE WANTS EX-CONS TO HAVE GUNS

The New York Times affirms its liberal cred's. And falls into a rabbit hole.

By Julius (Jay) Wachtel. First, an admission. A copy of the *New York Times* print edition lands on your blogger's family driveway – or often, the front lawn – seven days a week. After all, before ideology hopelessly corrupted the news biz, the *Times* was America's daily of record. Still, what it deems “fit to print” matters. And when its talented scribes tackle a topic close to your writer's heart – bad guys (and girls) with guns – it *really* matters.

On May 7 the *Times* published an [article](#) that describes how the policies of Jeff Sessions, the new A.G., expanded the enforcement of Federal gun laws. Here's how it begins:

Bobby Amos stood outside of an Episcopal church in Alabama last spring, begging police to kill him. He had been suicidal earlier and held a gun to his head, his wife said, and she had hidden the weapon at the church, where he had followed her to retrieve it. There was little to indicate that Mr. Amos, 39, was a danger to anyone but himself that day. He was arrested unarmed outside the church, in need of treatment and counseling, according to his lawyer, Fred Tiemann. Police recovered the pistol from the building.

First, a bit of law. [Federal law](#) prohibits persons with a prior felony conviction, meaning a crime punishable by imprisonment exceeding one year, from possessing firearms. Ordinary offenders [can draw up to ten years](#), while those with three or more violent felony convictions are eligible for a [mandatory fifteen](#). States also regulate gun possession by felons. Their scope is often more narrow. For example, [Alabama's law](#) only applies to persons previously convicted of a crime of violence, while [Pennsylvania](#) also bars gun possession by those with multiple convictions for serious property crimes.

As your blogger, a retired ATF agent well knows, “one man, one gun” cases have never been popular with assistant U.S. attorneys, who tend to think of them as beneath their station. But as the *Times* pointed out, and as Attorney General Jeff Sessions has [proudly proclaimed](#), prosecuting gun-toting felons has become a key tool in the fight against violent crime. Since Sessions took over the Feds have been making far more use of what the *Times* considers the “relatively routine charge” of ex-con with a gun. One of the “beneficiaries” of the new policy was Mr. Amos:

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Federal prosecutors, citing Mr. Amos's conviction of felony robbery as an adult at age 15, instead charged him with illegally possessing a firearm. He pleaded guilty in November and is serving a three-year sentence in federal prison.

Steven Gray was another. On New Year's Day 2017, officers in York, Pennsylvania reportedly caught him tossing a gun. Gray denied it was his, and his DNA apparently wasn't on the weapon. Even so, Gray *was* an ex-con, so the cops promptly handed him over to the Feds. Gray was ultimately convicted of Federal gun charges. What the *Times* article seems to lament is that even if Gray was technically guilty – and that's nowhere conceded – he clearly posed no great threat. So why did Session's minions butt in? Gray's lawyer had the answer: "Sometimes it appears they're just looking for numbers."

Having worked similar cases, your blogger knows that even the most convivial Assistant U.S. Attorney wants evidence that prospective gun defendants pose a real threat. Did Gray? Apparently the *Times* didn't think so. So we looked online. Bingo! A *York Dispatch* [article](#) describing the circumstances of Gray's arrest promptly popped up. According to police, Gray fired several shots (well, it *was* New Year's morning), officers saw him with a gun, he had to be chased, and he ditched the weapon as cops closed in. Still, Gray was in a way truthful. The gun *wasn't* his. You see, it had been stolen.

What's more, Gray's criminal past is considerably more extensive than the "felony drug charge" mentioned by the *Times*. According to the [Pennsylvania court portal](#) his record (click here for a partial printout) dates back to a 2010 felony drug arrest. That charge was apparently settled as a misdemeanor. Two years later Gray was back in trouble, accused of felony assault and harassment. Those were also reduced to misdemeanors, and Gray drew a year in jail and two years probation. His disabling "felony drug charge" (it should have read "charges") came in 2014. That's when he pled guilty to two counts of felony drug sales and got concurrent prison terms of one to two years.

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Docket Number	Short Caption	Filing Date	County
 CP-67-CR-0000744-2017	Comm. v. Gray, Steven George	2/3/2017 11:06:00 AM	York
 CP-67-CR-0008146-2014	Comm. v. Gray, Steven G.	12/29/2014 9:36:00 AM	York
 CP-67-CR-0008155-2012	Comm. v. Gray, Steven George	11/28/2012 12:00:00 AM	York
 CP-67-CR-0007435-2010	Comm. v. Gray, Steven G.	12/22/2010 12:00:00 AM	York
 CP-67-CR-0006921-2010	Comm. v. Gray, Steven G.	12/1/2010 12:00:00 AM	York
 CP-67-CR-0004356-2010	Comm. v. Gray, Steven G.	7/29/2010 12:00:00 AM	York

Clearly, the man just couldn't stay straight. He's also no youngster, having recently turned forty-seven. Did he simply "go bad" in 2010, when he was thirty-nine? Or might he have a prior record elsewhere? Police and the Feds know. Maybe a curious reader will find out and clue us in.

So what about Bobby Amos? Might there be something about *him* that the *Times* didn't let on? Well, yes. To begin with, Amos was *not* convicted "of felony robbery." [He was convicted of four "robberies"](#), each of the [first-degree](#), meaning that they were committed with a weapon or caused injury. On June 15, 1995 Amos pled guilty to two in Marshall County, Alabama, and on November 13 he pled guilty to the other two in Etowah County, Alabama. Amos got hammered, drawing consecutive terms of twenty and twenty-five years. Incidentally, that information (it's been rearranged to fit this space) is [readily available online](#). Just fill in his name. Even a reporter could quickly dig it up.

AMOS, BOBBY NEAL 00182462 BALDWIN COUNTY JAIL		Incarceration Details:				
		SUF Admit Date	Total Term	Time Served	Min Release Date	Parole Consideration Date
		06/15/1995	25Y 0M 0D	22Y 5M 30D	11/05/2020	02/01/2019
Case No.	Sentenced	Offense	Term	Type	Commit County	
*CC1995-200102	06/15/1995	ROBBERY I	20Y 0M 0D	Consecutive	MARSHALL	
*CC1995-000067	06/15/1995	ROBBERY I	20Y 0M 0D	Concurrent	MARSHALL	
CC1995-891.01	11/13/1995	ROBBERY I	25Y 0M 0D	Concurrent	ETOWAH	
CC1995-891.02	11/13/1995	ROBBERY I	25Y 0M 0D	Concurrent	ETOWAH	

We ordered copies of Amos' Etowah County court records. (We didn't bother with

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Marshall County.) Here is an extract from the first-degree robbery complaint, case WR 94 001874 00, issued by the court on November 30, 1994:

Before me the undersigned judge/clerk/magistrate of the district court of Etowah county, Alabama, personally appeared James Davis who...says that he/she...does believe that Bobby Neal Amos whose name is otherwise unknown to the complainant did on or about 11/17/94 in the course of committing a theft of \$2700.00 dollars of lawful U.S. currency and \$406.91 dollars of assorted checks the property of James Davis, did use force...while...armed with...a gun or pistol....

Two days later, Amos struck again. Victim Robert Lee McDowell signed complaint no. WR 94 001879 00, alleging that on 11/19/94 Amos and a gun-toting companion robbed him of his revolver and \$2500.

Amos and his associates targeted victims whom they knew had large sums of cash. That they did so repeatedly, and while armed, explains the stiff sentences. And not to quibble, but [court and jail records](#) give Amos' birthdate as July 2 or 12, 1978. He pled guilty to the Etowah charges on November 17, 1995. Those convictions came when Amos was *seventeen*; not, as the *Times* reported, *fifteen*.

Most folks would probably agree that discouraging felons from having guns is logical. Yet the *Times* piece seems deeply skeptical, and particularly about the value of Federal involvement:

Mr. Sessions' approach has touched off a debate about whether he is making the country safer from violent crime, as he and President Trump have repeatedly vowed to do, or devoting resources to low-level prosecutions that could instead be put toward pursuing bigger targets like gun suppliers.

Your blogger specialized in pursuing gun traffickers (more about that [here](#)). He fully agrees that putting them out of business is worthwhile. It can also be a lot like playing whack-a-mole. Meanwhile, the thug who'll shove a gun into your face, or mine, won't be a trafficker: it'll be someone like Bobby Amos. When they crafted the Gun Control Act of 1968, our nation's leaders agreed that incapacitating (fancy word for imprisoning) armed ex-cons was *everyone's* business. Victims Davis and McDowell would certainly agree.

And except for its anti-anything-that-Sessions-favors stance, so might the *Times*. Alas, [confirmation bias](#) reared its ugly head. Digging beyond the flimsy excuses offered by the defendants, their wives and lawyers would have undermined the ideologically predetermined conclusion. A superficial assessment was vital.

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Of course, just because us *Times* aficionados trend “blue” doesn’t mean we’re *all* daft. Go online and click on the reader comments. Many support Federal involvement. Here’s the fourth one down:

As a liberal Democrat with little admiration for Sessions, I find it hard to disagree with him on this. If knowing that illegal carriage of a gun will be prosecuted keeps weapons off the streets, the law is doing its job. When that person with poor impulse control, no matter what color, reaches into his pocket, let him not find a gun.

And to that what can we add but, Amen!

Posted 3/24/21

ONE WEEK, TWO MASSACRES

An Atlanta man buys a pistol. Hours later eight persons lie dead.



For Police Issues by Julius (Jay) Wachtel. According to the World Health Organization, “[compulsive sexual behavior disorder](#)” is an [impulse control disorder](#) “characterized by a persistent pattern of failure to control intense, repetitive sexual impulses or urges.” In the U.S., though, the levers of power are held by the American Psychological Association. And it’s repeatedly refused to officially recognize a like syndrome, “[hypersexual disorder](#),” as a bonafide mental disorder. APA’s dictionary, though, does offer a catchy definition of yet another wannabe, “[sexual addiction](#)”:

The defining features of a sexual addiction include sexual behavior that is out of control, that has severely negative consequences, and that the person is unable to stop despite a wish to do so. Other features include persistence in high-risk, self-destructive behavior; spending large amounts of time in sexual activity or fantasy; neglect of social, occupational, or other activities; and mood changes associated with sexual activity.

Whatever one calls Robert Aaron Long’s condition, there’s no doubt that the twenty-one year old resident of Atlanta was obsessed with sex. A former roommate at a local rehab facility where Long spent several months receiving treatment for sex addiction [said that his buddy was “tortured”](#) by his compulsive thoughts, and especially so because he was very religious. Long complained that he simply couldn’t stay away from massage parlors, which he frequented for sex: “He’d feel extremely guilty about it. He’d talk about how he was going to harm himself.” Yet Long also shared good things about his upbringing. A favorite memory was of getting a gun when he was ten.

Long's "passion for guns and God" was mentioned in [The Daily Beast](#). His since-deleted Instagram account reportedly featured the tagline "Pizza, guns, drums, music, family, and God. This pretty much sums up my life. It's a pretty good life."

Apparently, not so much. Long's parents had reached [the end of their ropes](#). Fed up with their son's obsession with pornography and his repeated visits to parlors for "massages with happy endings," they kicked him out of the house. That supposedly happened on March 15. On the very next morning Long bought a 9mm. pistol at a gun store. Like most buyers, he apparently quickly passed the Fed's automated "[Insta-Check](#)." Georgia [doesn't have](#) its own waiting period or background check, so Long promptly left with the gun.

[His murderous spree](#) began within hours. It would claim eight lives. Long's first stop was in the Atlanta suburb of Acworth, where he burst into Young's Asian Massage. His fusillade left four dead: owner Xiaojie Tan, 49, masseuse Daoyou Feng, 44, handyman Paul Andre Michel, 54, and customer Delaina Yaun, 33. Long also shot and seriously wounded Elcias Hernandez-Ortiz, a passer-by. He then drove to Atlanta's "Cheshire Bridge" area. Long opened fire inside Gold's Spa and, across the street, at Aromatherapy Spa. In all, [four employees](#) were killed: Yong Ae Yue, 63, Hyun Jung Grant, 51, Soon Chung Park, 74, and Suncha Kim, 69.

Informed that their son was wanted, Long's parents told police that his car had a tracking device. A highway patrol officer spotted the youth and performed a pit maneuver. [Long's car spun out](#) and he promptly surrendered. His pistol was in the car. Word is he was on his way to Florida, where he intended to continue his murderous spree.

Six of Long's victims were of Asian descent. That brought on a torrent of speculation that Long, who is White, was motivated by racial animus. But while pundits have feverishly cited the tragedy as the undeniable product of racism, we haven't come across any reliable information that Long was a bigot. Indeed, he insisted that he wasn't a racist but was angry at the spas for feeding his sexual obsessions. They were, [he allegedly told the cops](#), "a temptation that he wanted to eliminate."

Indeed, such "temptations" abound in the Cheshire Bridge area where Gold's and Aromatherapy are located. [According to the Atlanta Journal-Constitution](#) the zone has been long known as the city's "unofficial red light district" (click [here](#) for the paper's earlier, comprehensive account about the area's notoriety.) During 2011-2013 [Atlanta police arrested ten employees](#) of Gold's Spa who "offered to perform sexual acts on undercover officers for money." Each of the arrested was female, and several [listed the spa as their place of residence](#). [According to USA Today](#) all three massage parlors are

listed on erotic review site “[Rubmaps](#),” and user comments mention their special “benefits.” Young’s Asian Massage is supposedly being investigated for prostitution, and police received complaints about possible sex work and exploitation at the other two spas as recently as 2019. Yet city officials insist that as far as they know the businesses operate legally.

So we’ll leave it at that. Our focus is on a concern that your writer, a retired ATF special agent, can personally attest to: the ease with which deeply-troubled persons can “legally” acquire guns at retail. Posts in our [Gun Massacres special topic](#) have repeatedly discussed the problem. Long seemed clearly in the grips of a mental crisis. But he wasn’t a felon. He was never involuntarily committed to a mental institution nor formally adjudged mentally defective. So nothing in [Federal law](#) prohibited him from buying a gun, impulsively or otherwise.

Many States have adopted [a variety of measures](#) to address such gaps. Some extend the prohibition on gun possession to certain categories of misdemeanants. And/or expand the definition of disabling mental conditions to include voluntary treatment. And/or impose mandatory “waiting periods” before firearms can be delivered. A few have even enacted “[Red Flag Laws](#)” (also known as “extreme risk protection laws”) that empower judges, based on information from police and family members, to order the confiscation of guns from risky individuals

When it comes to Long, though, none of that was available. Georgia, whom the [Giffords](#) gun-control group regularly awards an “F”, [has not enacted any restrictions](#) that go substantially beyond Federal gun laws. It doesn’t offer a way to [preemptively seize guns](#). Neither does it impose [a waiting period](#) on gun deliveries. It’s basically “walk in with the loot, walk out with the heat”.

Had he been forced to wait ten days before picking up the gun, would Long have still carried out the massacre? Could a delay have blunted its impulsive underpinnings? Might a deeply-troubled young man have rethought his intentions? It’s impossible to say, but at the very least eight people would have stood a chance of staying alive.

But Long didn’t have to wait, and the consequences are plain to see.

In past years we’ve written about other gunslinging youths with long-standing mental issues of which family and friends were well aware. For example, [Elliot Rodger](#). A 22-year old college dropout, he had received mental treatment since childhood. Rodger eventually settled in Isla Vista, a Santa Barbara (CA) neighborhood populated by students. He would soon produce and share a lengthy and chilling “manifesto” that [excoriated co-eds for spurning him sexually](#):

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I will punish all females for the crime of depriving me of sex. They have starved me of sex for my entire youth, and gave that pleasure to other men. In doing so, they took many years of my life away.

During 2012-2013 Rodger bought three 9mm. pistols at two gun stores and practiced with them at a range. On May 23, 2014, two weeks after a call from his worried parents prompted a visit by Sheriff's deputies (they were satisfied he was o.k. and left) Rodger stabbed three students to death. He then went on a shooting rampage, killing three more students and wounding thirteen. Rodger then shot himself dead.

Then there's [Jared Lee Loughner](#). Also twenty-two, and also a one-time student – [he had been expelled from an Arizona college](#) for erratic behavior – Loughner opened fire with a 9mm. pistol at a January 8, 2011 Tucson political event. Six fell dead and thirteen were wounded. One of the latter was then-Representative Gabrielle Giffords (D-Az), who went on to found the well-known gun control group whose website we referenced above. Loughner bought his gun at a local gun shop five weeks earlier. On the morning of the massacre he went to get ammunition but his odd behavior [led one store to turn him away](#) (he got what he wanted at another store.) After his arrest Loughner was placed on medication and confined to a mental ward. He ultimately pled guilty and was sentenced to “forever.”

Just like Long, Elliot Rodger and Jared Loughner readily bought guns at a store. Both were free of felony convictions. While each was (like Long) a longtime mental basket case, neither had been committed to a mental institution nor formally adjudged as mentally defective. Both had reached that magical age – twenty-one – that qualified them to purchase a handgun. (Eighteen is the Federal minimum for buying a rifle or shotgun at a store.)

Before Boulder happened we intended to present data – we've put together some fascinating numbers – that probes the effects (if any) of waiting periods and such on State homicide rates. But things have changed. So once we collect enough information about the Colorado massacre we'll be back with Part II. Hopefully that will conclude the series.

Posted 8/9/21

OUR NEVER-ENDING AMERICAN TRAGEDY

***California's gun laws are the "strongest in the U.S."
Tell that to its citizens. And its cops.***



For Police Issues by Julius (Jay) Wachtel. Located northwest of Bakersfield, the placid community of Wasco lies amidst vast fields of roses, a colorful commodity that the area produces in great abundance. But on July 25 the town of about 25,000 became the latest venue of our never-ending American tragedy. That's when a deeply troubled resident, [Jose Manuel Ramirez Jr., 41](#), opened fire with an AK-47 type rifle and a handgun, killing his wife, Viviana Ruiz Ramirez, 42, and their two sons, Jose Manuel Ramirez III, 24, and Angel Manuel Ramirez, 17.

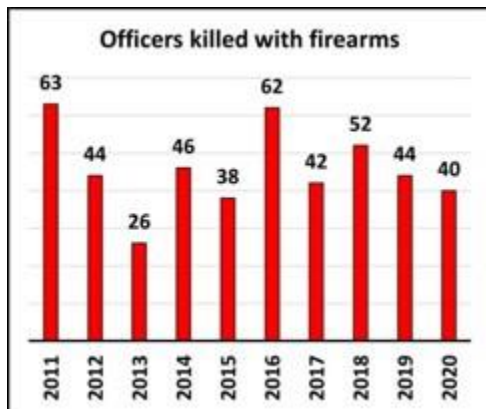
[Neighbors alerted 9-1-1 to the gunfire](#) and reported that victims had been shot. When deputies arrived Jose Ramirez fired at them from inside the home. They backed off and summoned SWAT. Soon two armor-clad deputies approached on foot to attempt a rescue. Firing through a window, Martinez unleashed another barrage. His rounds struck and killed Deputy Phillip Campas and wounded his partner, Deputy Dizander Guerrero. Ramirez holed up for hours, then tried to climb onto the roof. Deputies shot him dead. As it turns out Ramirez was a felon, thus legally barred from possessing firearms. [A domestic violence restraining order](#) had also been issued prohibiting him from having guns.

According to the [Gun Violence Archive](#), in 2021 the Golden State suffered [twenty-eight "mass shootings"](#) (four or more wounded or killed other than the gunman) through July 29. Our essays have mentioned several. "[Two Weeks, Four Massacres](#)" described the March 31 episode when a disgruntled middle-aged man burst into an Orange County business and opened fire with a pistol, killing four including a nine-year old. (He was wounded and captured.) Two months later another angry man packing

three pistols and multiple magazines [murdered nine coworkers at a San Jose rail yard](#), then took his own life.

Our [gun massacre essays](#) have harped about the ghastly toll for years. But [a recent survey](#) indicates that a majority of the Golden State's residents "believe gun control laws are effective in reducing crime." A notable gun-control organization, [Giffords](#), holds California up as a model of sanity. After all, it boasts the nation's strongest gun laws and one of its lowest gun death rates. Cause and effect! But [our recent analysis](#) of state-level data using the *r* statistic (it ranges from zero, meaning no relationship, to 1.0, a perfect association) found that gun laws are far less important a factor than economic conditions.

	Homicide	Gun homicide	Mass Shooting
Gun law strength	-.33	-.20	-.23
Gun ownership	.26	.17	.84
Pct poverty	.74	.72	.63



Guns don't just imperil ordinary citizens. Four-hundred fifty-seven American law enforcement officers were killed by hostile gunfire during the last decade ([LEOKA Table 31](#)). Seventy-one percent (325) fell to handgun rounds, and twenty-one percent (95) to bullets fired from rifles. Most of the carnage was produced by powerful, modern-day weapons. Sixty-six percent (214) of the handgun fatalities were caused by 9mm. and .40/.45 caliber pistols. AR-15 type (cal. 223 cal./5.56 mm.) and AK-47 type (7.62 mm.) weapons accounted for fifty-seven percent (54) of deaths from rifle fire.

It's not just about assault rifles. "[Two Weeks](#)" pointed out that "the muzzle energy of ammunition fired by today's 9mm. pistols can be twice or more that of the .38's and .380's that were popular when your writer carried a badge." But when assault weapons *are* involved, watch out! As [our Washington Post op-ed](#) warned two years ago, even the hardest protective vests can prove ineffective against the unseemly ballistics of military-style weapons that are routinely marketed for civilian use. LEOKA reported that sixteen of the seventeen officer deaths between 2011-2020 which involved penetration of body armor were caused by projectiles fired



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from rifles ([Table 39](#)). Ten were of the AR-15 and AK-47 type. The only penetration fatality attributed to a handgun was caused by the highly lethal 5.7 X 28 mm. round fired by a [“big boomer” pistol](#), really an assault weapon in disguise.

But don't California's “strong” gun laws prohibit “assault weapons”? Technically yes, but [the devil is in the details](#). For example, if a gun has a removable magazine, it can't sport features such as a protruding pistol grip. Wily manufacturers have adapted with a host of legal variants. Here, for example, are the



“California legal” versions of the weapons Syed Farook and Tashfeen Malik used to murder fifteen in the [2015 San Bernardino massacre](#) (DPMS Panther Arms on the left, Smith & Wesson M&P15 on the right.) Both fire the same extremely lethal .223/5.56mm. bullet as the AR-15. Readily slicing through doors, walls, and bullet-resistant inserts in protective vests, these fearsome rounds produce [massive, often unsurvivable wound cavities](#) wherever they strike. Ballistics-wise, though, California (just like the Feds) only imposes one restriction: caliber must fall below .50. Job done!

Really, if cops could do all their work from armored cars, that's where many would prefer to remain.

Fast-forward to 2021. According to [LEOKA's running count](#), twenty-nine U.S. law enforcement officers fell to hostile gunfire during the first six months of this year. [Five served in California](#). Three were reportedly victims of pistol fire, and two of projectiles discharged by assault-style rifles:

- Sacramento County deputy sheriff Adam Gibson, [murdered on January 18, 2021](#) by an ex-con armed with a pistol. Another officer was wounded.
- San Luis Obispo Police Department detective Luca Benedetti, [murdered on May 10, 2021](#) by a burglary suspect armed with an assault rifle. Another officer was wounded
- Stockton Police Department officer Jimmy Inn, [murdered on May 11, 2021](#) by an ex-con armed with a pistol.

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- Sergeant Dominic Vaca, San Bernardino County Sheriff's Office, [murdered on May 31, 2021](#) by an assailant armed with a pistol.
- Kern County deputy sheriff Phillip Campas, one of the Wasco victims, murdered on July 25 with an assault rifle. A colleague was wounded.

Even in supposedly blessed California, lethal gunplay is so frequent that it takes a cop killing, a mass murder or some very unusual circumstances to merit a headline. That threshold was breached a few days ago when a famous “Tik Tok” influencer and his girlfriend [were shot in the head while watching a movie](#) in a darkened Corona theater. Both succumbed to their wounds. Joseph Jimenez, 20, a local resident unconnected with the couple, was arrested the following day, and the handgun he reportedly used was recovered at his residence. A schizophrenic off his meds, [Jimenez told authorities](#) that “voices in his head” provoked the attack. “I wish I didn’t do it,” he said.

Of course, it’s not just about California. New York State [is also held up as a “national model”](#) by Giffords, which ranks the Empire State’s gun laws as [fifth strongest](#) in the U.S. Here’s a recent headline from the *New York Times*:

Mass Shooting in Queens Leaves 10 Wounded

As seven bystanders were injured in a shooting, Eric Adams called on New York City authorities to intensify efforts against gangs and guns.

[Giffords also has high praise for Illinois](#). After all, its gun laws are supposedly eighth strongest. So here’s a headline we originally scoured from the *Chicago Tribune*:

At least 55 people shot, 7 fatally, this weekend in Chicago. One man slain after brick was thrown through his window.

But while wrapping up this piece we learned that on Saturday evening, August 7, [Chicago police officer Ella French was shot and killed](#) and her partner was critically wounded by an occupant of a vehicle they stopped while on patrol in the Seventh police precinct. (That area, which encompasses the Englewood & West Englewood neighborhoods, is so violence-ridden that we singled it out in [“The Usual Victims”](#).) During the exchange of fire, the shooter was also wounded, and three persons are now in custody. Here’s the *Chicago Tribune*’s headline:

Two Chicago police officers among 47 people shot in weekend violence that left one cop dead

What to do? “[A ‘Ban’ in Name Only](#)” and our [Washington Post op-ed](#) suggest that firearms lethality could be measured with “a scoring system that takes characteristics such as ballistics, rapid-fire capability, lack of recoil, accuracy and portability into account.” Guns that exceed certain parameters could be banned. But unless we really, *really* long for another American Revolution, sharply curtailing the lethality of firearms (and, as well, drastically reducing the number in circulation) are likely out of reach. When it comes to serious gun control, our badly fractured land may indeed be “[A Lost Cause](#).”

Not so the U.K. One year after a 27-year old British subject gunned down sixteen persons with a handgun and two rifles in the [Hungerford Massacre of 1987](#), Great Britain enacted the “[Firearms \(Amendment\) Act 1988](#),” which banned semi-automatic rifles beyond .22 rimfire. And after the [Dublane school massacre of 1996](#), when a man armed with four handguns murdered sixteen children and a teacher, Great Britain essentially [banned handguns](#) beyond super-long barreled .22’s. (Click [here](#) for U.K. gun laws and turn to pp. 17-18 for the prohibitions.)

These restrictions continue to enjoy abundant public support. As well they should. During the one-year period ending March 2020 [695 persons were murdered in the U.K.](#) (England and Wales.) With a population of 67,081,000, its per/100K homicide rate was 1.0. To compare, in 2019 [our land suffered 16,425 homicides](#). With a population of 328,239,523, America’s per/100K murder rate comes in at 5.0, *five times* the U.K.’s. And while a measly *thirty* (4.3%) of the U.K.’s homicides were by shooting (sharp instruments were far more common) guns figured in [nearly three out of every four](#) (73.7%) murders in the U.S.

What about cops? “[A Lost Cause](#)” contrasted murders of police officers in the U.S. and the U.K. between 2000-2015. During that period Great Britain’s yearly toll hovered around *one*. Using data from LEOKA Table 28 and accounts from the U.K.’s [Police Roll of Honour Trust](#), here’s an update:

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U.S.				Officers feloniously killed				U.K.			
	Guns	Other	Total						Guns	Other	Total
2016	62	4	66	U.S. 5 X pop., 7 X cops				2016	0	0	0
2017	42	4	46	U.S. cops v. U.K. cops				2017	0	2	2
2018	52	5	57	2016 - 2021				2018	0	0	0
2019	44	4	48	Gun deaths All deaths				2019	0	1	1
2020	41	5	46	↓				2020	1	0	1
2021	36	8	44	277 X 77 X				2021	0	0	0
Total	277	30	307					Total	1	3	4

Back to fixing things. Your writer spent his first career chasing gun traffickers. Many used “straw buyers” to buy guns singly and in quantity from gun stores in the same or neighboring States. Some got their guns directly from licensed dealers who corruptly pushed them “out the back door.” However they acquired their guns, street dealers promptly resold them at considerable profit to criminals and thugs. Many of these weapons turned up quickly in crimes. (Click [here](#) for the writer’s published article about gun trafficking in Los Angeles.)

Straw buyers feeding illegal street dealers continues to be a major source of crime guns. Addressing this problem is the objective of a new Department of Justice initiative (click [here](#) for a news account and [here](#) for DOJ’s press release.) New York City [recently reported](#) a major “bust.” We heartily support such efforts. Still, trafficking casework consumes prodigious resources. Investigators must identify potential violators, conduct extensive surveillance, and execute warrants to search and arrest. Considering the massive numbers of firearms that are manufactured and sold each day, it’s unlikely that even the best investigative efforts can substantially reduce the lethal toll.

Ditto, fine-tuning the law. Illinois, for example, [recently enacted a regulation](#) that directs State police to confiscate firearms from persons whose firearms ID cards have been revoked, say, because of a felony conviction, but who apparently kept their guns. Background checks will also be required for private party gun transfers beginning in 2024. To be sure, these are promising steps. But no one with any experience in such things would claim that they’re likely to make a substantial dent on violence overall.

Perhaps nothing can. But some determined citizens are refusing to give up. Despite bankrupt Remington Arm’s offer to settle for \$33 million, the families of the twenty-six students and teachers who were murdered in the [2012 Sandy Hook elementary school massacre](#) are [pressing on with their lawsuit](#). They insist they will prevail because in their

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view the [Federal law that shields gun makers and sellers from litigation over gun misuse](#) doesn't apply. According to the plaintiffs, Remington violated Connecticut law – the school was located in Newtown – by purposely marketing the assault weapon used in the attack to appeal to the violence-prone.

It's not just Americans who are upset. Mexico [recently filed a Federal lawsuit](#) against Smith & Wesson, Colt, other gun makers and a wholesaler, alleging that negligent gun marketing practices have fostered a huge, illegal inflow of guns that greatly imperils its citizens. As someone who has worked “guns to Mexico” cases, your writer heartily agrees.

Given the nature of our society and its body politic, tweaking the rules seems the only option. But even the hardest legal response (e.g., California's) has had at best only a limited effect. What *would* work – drastically shrinking the number of guns in citizen's hands and sharply curtailing the lethality of what remains – seems well out of reach. We're not Britannia! That's why when it comes to gun control, *Police Issues* tends to despair. Yet there's been some momentum. Hopefully the final chapter of Reasonable Americans v. Guns is yet to be written.

Posted 9/16/24

PREVENTION THROUGH *PREEMPTION*

Expanding the scope of policing beyond making arrests



For Police Issues by Julius (Jay) Wachtel. On the morning of Sept. 4, 2024 Colt Gray, a 14-year old student, walked into Apalachee High School in Winder, Georgia. An “AR-style” rifle was concealed in his backpack. He went to class but soon walked out. And on his return he opened fire, killing two students and two teachers and wounding nine others.

Colt promptly surrendered. Details about what he did, and why, continue to emerge. (For the *AP*’s extensive, frequently updated account, click [here](#).) How this tragedy might have been prevented is getting a lot of attention. Colt reportedly alerted his mother that he had evil intentions. Alas, her call to the school apparently came too late. Physical security measures also seemed lacking. In our gun-saturated land, metal detectors and backpack searches may no longer be “optional”. Here, though, our focus is on the cops. Could authorities have taken life-saving, proactive steps months, even years earlier? Did they have the necessary tools? And, most importantly, the right *mission*?

im committing a mass shooting, and im waiting a good 2-3 years

im on the edge of a lgbtq massacre

In May, 2023 [the FBI received](#) “several anonymous tips about online threats to commit a school shooting at an unidentified location and time.” [These two examples](#) exemplify what was being posted on a [Discord](#) account under the name of “Lanza” (the notorious



Sandy Hook killer, but in Russian.) An email address connected with the account was linked to then-13-year-old Colt Gray, and the FBI passed it all on to the Jackson County sheriff.



Colt and his father, Colin, were promptly visited by two deputies. That visit was in part captured on video (click [here](#)). Throughout its approx. 13-minute length, the deputy who conducted the interview (his companion took the video) used a mild tone and was careful not to offend. Attributing the visit to “Lanza’s” posts, he insisted that he and his partner were just doing their job. “I hate this...I feel pretty bad about this...” He also downplayed the matter’s urgency. “I don’t know how old this information is....”

Colt’s father, with whom the deputy first spoke, confirmed that he kept hunting guns at home, but that his son could only access them under supervision. Colin proudly said that Colt did “a lot of hunting” and had “shot his first deer this year.” But he also mentioned that Colt was “getting picked on in school.” Colt soon joined in. He and his father denied any knowledge of the threats. Colt said he left Discord because his account was hacked. He conceded being bullied, and said that he was being helped by a school counselor.

Although the deputy’s tenor remained compassionate and low-key, he ultimately conveyed some mixed feelings about Colt’s denials. “I gotta take you at your word. And I hope you’re being honest with me...I’m not saying you’re lying...but it’s not unusual for people to lie to me.”

Video aside, the deputies’ written report [offered a disturbing picture](#) of the Gray household. Nine months earlier, in August 2022, the family, comprised of Colin, his wife Marcee, Colt and two younger siblings, was formally evicted from their home. Deputies participated in the process and took ammunition and an assortment of weapons including “a black AR-15 rifle with a scope” for safekeeping. These items were later returned to the father.

Colin and Marcee separated. She took the two youngest, and Colin and Colt moved to the residence where they were interviewed. [Marcee went on to rack up a string of arrests](#) for drugs, family violence and battery. After serving a brief jail term, she was required to attend a “family violence intervention program” and was prohibited from contacting her husband.

Had the deputies taken prompt and decisive action after meeting with Mr. Gray and his son, four innocents might still be alive. So why didn't they? A few hours after the massacre the FBI [released an official statement](#) that deemed Colt's reported connection to the threats as "inconsistent" and insufficient to justify an arrest. Here's an extract:

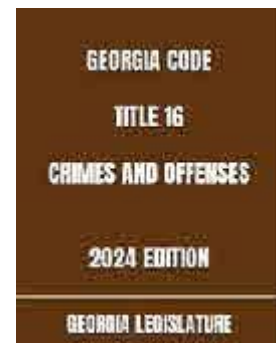
...The father stated he had hunting guns in the house, but the subject did not have unsupervised access to them. The subject denied making the threats online. Jackson County alerted local schools for continued monitoring of the subject...At that time, there was no probable cause for arrest or to take any additional law enforcement action on the local, state, or federal levels.

What *was* needed? Here's Georgia's law on "terroristic threats" ([GA Code § 16-11-37](#)):

(1) A person commits the offense of a terroristic threat when he or she threatens to: (A) Commit any crime of violence; (B) Release any hazardous substance; or (C) Burn or damage property.

(2) Such terroristic threat shall be made: (A) With the purpose of terrorizing another; (B) With the purpose of causing the evacuation of a building, place of assembly, or facility of public transportation; (C) With the purpose of otherwise causing serious public inconvenience; or (D) In reckless disregard of the risk of causing the terror, evacuation, or inconvenience described in subparagraph (A), (B), or (C) of this paragraph.

(3) No person shall be convicted under this subsection on the uncorroborated testimony of the party to whom the threat is communicated. Terroristic threats are misdemeanors unless they call for someone (implicitly, a specific someone) to be killed, in which case they are felonies.



There's no disputing that the *Discord* posts reviewed by the [Washington Post](#) meet Georgia's legal definition of "terroristic threat." What the FBI and sheriff's office said they found lacking, though, was the "who."

As one would expect, the Apalachee High School shooting has stirred a great deal of

critical retrospection. [Authorities are now facing severe criticism](#) for not using subpoenas and other means to probe Colt's supposedly vile online behavior.

Still, even critics concede that invoking the power of the criminal law is no simple matter. When the deputies visited there had not been a shooting, and the one crime that a 13-year old might have committed was likely to be deemed a misdemeanor. Georgia's cops aren't mandated or funded to chase wild geese.

Is anyone? Actually, yes. [Twenty-one States](#) (not including Georgia) have enacted "extreme risk" (aka "Red Flag") laws. These enable authorities – and, often, family members and co-workers – to petition courts for orders directing police to seize guns that may be at imminent risk of misuse.

Red Flag laws provide agencies with the rationale and – equally importantly – the funding they might need to probe the personal histories of troubled souls. And Colt hardly needed a very deep dive. His extended family was well aware of the youth's long-standing psychological issues. Annie Brown, his mother's aunt, [recently told The Washington Post](#) that she had helped the child, who was chronically absent from school, enroll in a new middle school. Colt, she claimed, was "begging for help from everybody around him. The adults around him failed him."



Colin obviously knew that he had a seriously troubled kid. But when the deputies showed up he conveyed the fiction that everything was well in hand. He conceded that Colt experienced "some problems" at middle school, but insisted that things had improved. Colin didn't get into the details of his son's mental health issues, and the deputies apparently didn't ask. Indeed, Colt's father had apparently fooled himself. In December 2023, about seven months after the deputies' visit, [he bought the AR-15 style rifle](#) that was used in the massacre (crime scene photo on left) as a Christmas present for his son.

In the end, it fell to Colt's grandmother to go to Apalachee High School and ask for help. And they apparently came through. Colt was scheduled to start therapy one week before the shooting.

On September 6, 2024, father and son [appeared in Barrow County Superior Court](#). Colt, who is being treated as an adult, was charged with four counts of murder. Moments later, the same judge charged his father with "four counts of involuntary

manslaughter, two counts of second-degree murder and eight counts of cruelty to children.”

Might a Red Flag law have prevented four deaths, nine woundings, anticipated life-without-parole sentences for a father and son, and the hideous toll on families and friends? It’s possible. But even in Red Flag states, extreme risk protection orders require forewarning. And the will and resources to carry the process through. On August 21 [a California senior opened fire in his home](#), wounding his mother and leaving two adult relatives dead. Police were twice called to the residence about the shooter’s behavior during the previous week. But officers didn’t think that 60-year old William Bushey posed an immediate threat. “He did not meet the criteria for an emergency psychiatric hold, so they left, leaving the family with resources.”

No, those “resources” didn’t include body armor.

And the slaughter inexorably continues. Two days after Apalachee, a dispute led a 16-year old to shoot and kill a 15-year old in a restroom [at Joppatowne High School](#) in Joppa, Maryland. Yes, that state has a Red Flag law, but there was apparently no forewarning. Clearly, to make a real difference one must restrict the availability of guns. Say, altogether prohibit their possession by youths. (Of course, that would get in the way of dads sharing a unique hobby.) Or require that firearms kept at home be stored under lock and key. (Of course, that could get in the way should an emergency arise.) Bottom line: in our ideologically-riven, gun-obsessed land, enforcing the laws that exist is difficult enough; the barrier to tightening things up may well be insurmountable. So we’ll keep doing what’s least controversial – say, going after ex-cons with guns and their shady suppliers, as your writer did during his ATF career – and leave the rest for another day.

That is, should there *be* another.

Posted 11/21/18, edited 11/29/18

RED FLAG AT HALF MAST (PART I)

California's Gov nixes expanded authority to seize guns from their owners



By Julius (Jay) Wachtel. How can guns be taken away from reportedly unstable, possibly dangerous owners? [A dozen-plus states](#) have passed laws that authorize judges to issue so-called “Red Flag” orders (more formally, “Gun Violence Restraining Orders” and “Extreme Risk Protection Orders.”) California’s version, in effect since January 2016, comes in three flavors. Two are ex-parte, requiring pleadings by one side only. Both last 21 days: an emergency order, based on a police request, and a non-emergency ban based on testimony and evidence presented by police and/or close family members. Should petitioners wish to renew either order or secure a year-long ban, a hearing must be called so that both sides can be heard.

As things stand in the Golden State, only law enforcement officers or immediate family members ([that apparently includes roommates](#)) can apply for an order of whatever kind. Feeling that to be too limiting, the Legislature recently sent the Governor [a bill](#) that would have expanded the roster of authorized petitioners to include “an employer, a coworker, or an employee of a secondary or postsecondary school that the person has attended in the last 6 months.” But on September 26 Governor Jerry Brown vetoed the proposal:

All of the persons named in this bill can seek a gun violence restraining order today under existing law by simply working through law enforcement or the

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immediate family of the concerning individual. I think law enforcement professionals and those closest to a family member are best situated to make these especially consequential decisions.

Then, a mere six weeks after the Guv said “no,” disaster struck. On November 7, 2018, [Ian David Long](#), 28, walked into an L.A.-area bar packed with college students, pulled a .45 caliber pistol and opened fire. By the time the Marine Corps combat vet pulled the trigger on himself twelve innocent souls were dead, among them Ventura Co. Sheriff’s Sergeant Ron Elus, the first officer on scene.

Sadly, while his horrifying act was unanticipated, the protagonist’s identity didn’t come as a complete surprise. Long’s tantrums [had spurred repeated visits by deputies](#) to the residence where the unemployed, deeply troubled young man and his mother lived. Last year, an officer summoned to the home observed that Long was “somewhat irate and acting irrationally.” But a mental health team decided there was insufficient reason to detain him. More recently, neighbors reported that Long went on a rampage that “sounded like he was tearing down the walls of the house.” Taken as a whole, the circumstances – repeated instances of crazy behavior, calls to police, no decisive action or inquiry about guns – seem remarkably similar to the precursors of [the bloodbath in Santa Barbara](#). Yet by the time of Long’s murderous acting out, California’s Red Flag law, which was intended to prevent such things, had been in effect for nearly three years.

Well, mom must have known that her son was armed and dangerous. Why hadn’t *she* petitioned the court? Likely for that very reason. California’s [official courts website](#) cautions against turning in one’s kin and strongly advises family members to let the police do the deed:

You can ask for a firearms restraining order against a close family member if you are afraid they may hurt themselves, or another person, with a gun. If you are in this situation, it is best to ask the police or other law enforcement to ask for the firearms restraining order...The officer will take the person’s firearms and ammunition while giving them a copy of the order. You should only ask for an order yourself if the police (or other law enforcement agency) will not do it and you are very concerned.

[According to The Trace](#) thirteen states have Red Flag laws authorizing judges to order allegedly dangerous persons to give up their guns: California, Oregon and Washington in the West; Illinois and Indiana in the Midwest; Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Rhode Island and Vermont in the East; and Florida in the South.

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What's driven these laws? Waves of senseless killings. Connecticut was first out of the gate [with a statute](#) drafted in response to the March 6, 1998 murder of four co-workers by a mentally troubled employee of the state lottery. While the bill wound its way through the legislature, two heavily-armed teens killed thirteen and wounded twenty-one at [Colorado's Columbine High School](#), a tragedy that resounded throughout the nation. That reportedly settled things, and Connecticut's governor signed the measure on June 29, 1999.

[Five more states](#) joined the parade this year: Florida, Maryland, New Jersey, Rhode Island and Vermont. [Florida's statute](#) was propelled by the Valentine's Day massacre at [Marjorie Stoneman High School](#), in a Miami suburb. [NRA A-rated Republican legislators](#) quickly drafted a Red Flag measure, which the state's Republican governor signed into law on March 9. Most recently, [Maryland's law](#) (it took effect this October) came on the heels of [a series of killings](#): a school shooting in March that left two students dead, an armed attack on a newspaper office in June with five casualties, and the killing of three fellow employees by a mentally ill woman who then committed suicide.

State gun violence orders carry a variety of legal and evidentiary requirements. (For a precise state-by-state rundown, click [here](#).) California's provisions take a middle ground, facilitating an urgent response but imposing safeguards when deciding for the longer term. For example, its [emergency ex-parte \(one-sided\) 21-day order](#) requires police to offer "reasonable cause" that the respondent "poses an immediate and present danger of causing personal injury to himself, herself, or another." Like most such laws, it also stipulates that "less restrictive alternatives" must have been considered and ruled out. [Non-emergency orders](#) (these are also 21 days and ex-parte but can be initiated by immediate family members) carry a burden of "substantial likelihood." [Imposing a full one-year ban](#) requires a full hearing as well as "clear and convincing evidence" of dangerousness. (For a rank-ordered analysis of legal standards click [here](#).)

Indiana is somewhat of an exception. Its Red Flag law authorizes officers who believe that an individual presents "an imminent risk" [to pre-emptively seize firearms](#) (but not conduct a search) without a warrant. They must then promptly obtain a judicial endorsement and proceed in the normal fashion.

Of course, ordering someone to give up their guns doesn't assure compliance. In twelve Red Flag states police who encounter uncooperative subjects must obtain a search warrant to look for guns, an additional process that carries its own burden of probable cause. In contrast, orders obtained in [Connecticut](#) are effectively search warrants:

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Upon complaint...to any judge of the Superior Court, that [there is] probable cause to believe that (1) a person poses a risk of imminent personal injury to himself or herself or to other individuals, (2) such person possesses one or more firearms, and (3) such firearm or firearms are within or upon any place, thing or person, such judge may issue a warrant commanding a proper officer to enter into or upon such place or thing, search the same or the person and take into such officer's custody any and all firearms.

Judges are directed to refer candidates to mental health proceedings when appropriate.

Connecticut leaves the entire process to the police. Otherwise *who* can petition for an order varies. [According to the Giffords Law Center](#) Florida, Rhode Island and Vermont limit applicants to police. Eight states (California, Illinois, Delaware, Maryland, Massachusetts, New Jersey, Oregon and Washington) allow, or will soon allow, immediate family members to file petitions as well. Maryland's taken a step beyond, letting mental health workers kick things off as well. But no one goes any further.

Had California expanded its list of authorized petitioners to include co-workers and school employees it would have been treading new ground. But some claim that the state fails to use the authority it currently has. A week before Governor Brown issued his veto, [an expansive review](#) by the *Los Angeles Times* revealed that California judges issued "fewer than 200" gun violence restraining orders during 2016-17, the law's first two years (no distinction was made as to type of order.) As one might expect, Los Angeles County, by far the state's most heavily populated at ten-million plus, claimed the largest share: 32, or about one per month. Second place went to Santa Barbara County. Notably, with a population less than 1/20th. L.A.'s, it issued twenty-one notices. Given that the county was the setting for the [2014 Isla Vista massacre](#), which led to the law's enactment, its enthusiastic use of the statute is unsurprising. Clearly, context matters. More recently, amidst a wave of mass shootings, [Maryland judges fielded 114 applications](#) for gun violence orders during October, the law's first month of operation. Seventy respondents were ordered to surrender their guns, and thirty-six ultimately lost their rights for up to one year.

Still, as Maryland quickly discovered, vigorously enforcing Red Flag laws itself carries some risk. On November 5th. Anne Arundel (MD) police [served an order](#) filed by a woman against her 60-year old brother. He answered the door while armed, "became irate" and wrestled with a cop for the gun, which discharged during their struggle. The other officer then shot him dead.

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One assumes this won't be the last incident of its kind. So are Red Flag laws worth it? For a review of studies about their effectiveness, and our take on their conclusions, be sure to come back for Part II!

Posted 12/5/18

RED FLAG AT HALF MAST (PART II)

Preventing more than suicide may carry serious risks

By Julius (Jay) Wachtel. State and Federal laws [generally prohibit gun possession](#) by the adjudicated mentally ill and by subjects of a domestic violence restraining order. According to [a nationally-representative survey](#) of 5,653 persons 18 and older, about 10½ percent of the adult population self-reports substantial “anger traits” and keeps guns at home, while about 1.6 percent self-reports such traits and carries a gun (those required to do so by their job were excluded.) However, only a very small slice of this problematic group – 13.2 percent of the angry, gun-at-home cohort and only 16.3 percent of the angry gun-packers – has been hospitalized for a mental health problem, thus automatically denying them the right to have guns. It’s their far greater number of non-adjudicated, gun-possessing peers that “Red Flag” laws are meant to address.

Unlike Red Flag laws that simply command alleged possessors to give up their guns (if needed, search warrants must be separately obtained), [Connecticut’s](#) statute, which was first out of the gate in 1999, directs officers to conduct a search and seize the guns they find. It was at first applied sparsely, generating about 20 seizure orders a year. But its use jumped after the [2007 Virginia Tech massacre](#), with 100 warrants in 2011, 139 in 2012, 183 for the full year 2013, [and 150 or more during each subsequent year through 2017](#).

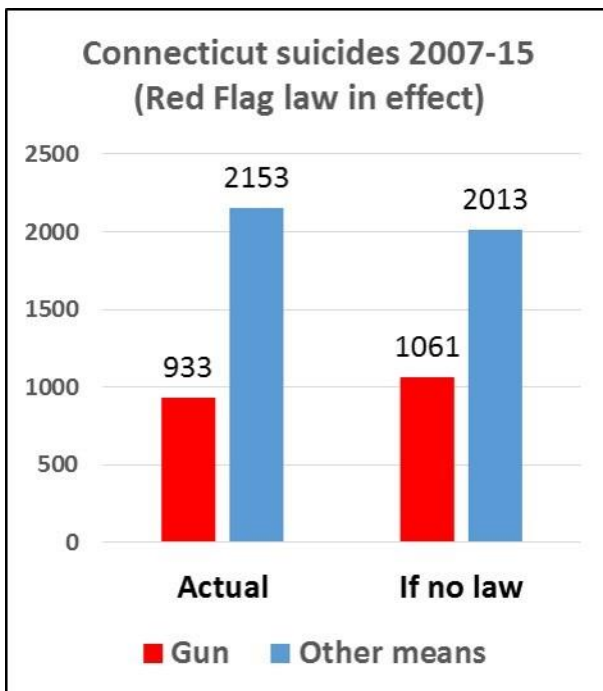
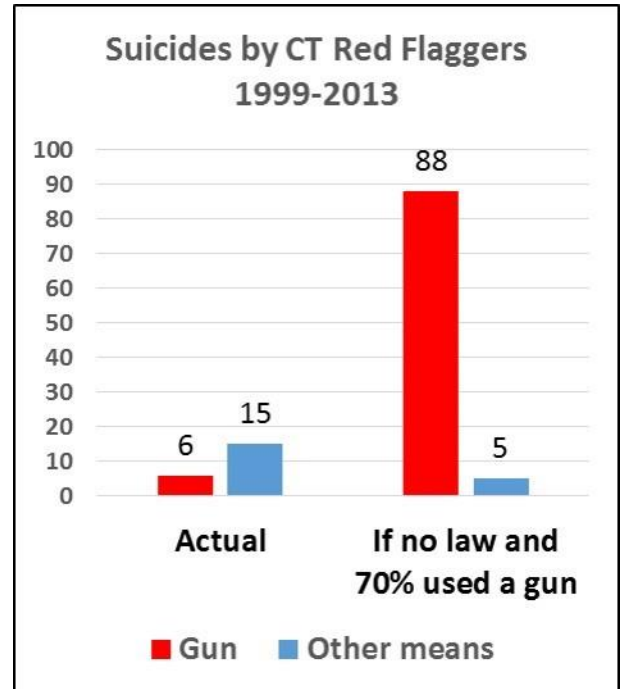
A study published in [Law and Contemporary Problems](#) examined the statute’s effects between its enactment and June, 2013. During this period judges issued 762 Red Flag warrants. Twenty-one of the named defendants subsequently committed suicide, six by gun and fifteen by other means (e.g., pills).

What did the law accomplish? Persons served with warrants who thereafter committed suicide were less likely to do so with guns (6/21, 29 percent) than adults of the same gender in the general population (35 percent), and far less often than gun owners (65 percent.) Applying what’s known about the efficacy of suicide methods, researchers estimated that Red Flaggers attempted suicide 142 times post-seizure, seven times with a gun and 135 times by other means. After an elaborate process, the authors concluded that one life was saved for every ten to twenty seizures. Computations that led to the less effective estimate (1/20) were based on the suicidal inclinations of Connecticut gun owners at large, while the other extreme (1/10) reflected the fact that

Red Flaggers were at special risk, with a suicide rate forty times that of the general population.

Guns are a particularly effective means of killing oneself, so the law's deterrent effect on gun slinging seems a good thing. Just how good was it? Had members of the group *not* been "flagged," retaining their access to firearms and lethal inclinations, they might have turned to guns in, say, seventy percent of suicide attempts. If so, there would have been eighty-two additional gun deaths and ten fewer by other means, yielding a total of ninety-three fatalities instead of twenty-one.

Psychiatric Services ([abstract online](#)) recently published a study that analyzed the effectiveness of Red Flag laws in Connecticut and Indiana. Using a quasi-experimental approach, it compared their post-enactment suicides to control groups of non-Red Flag law states whose pre-law characteristics were weighted to provide a close initial match.

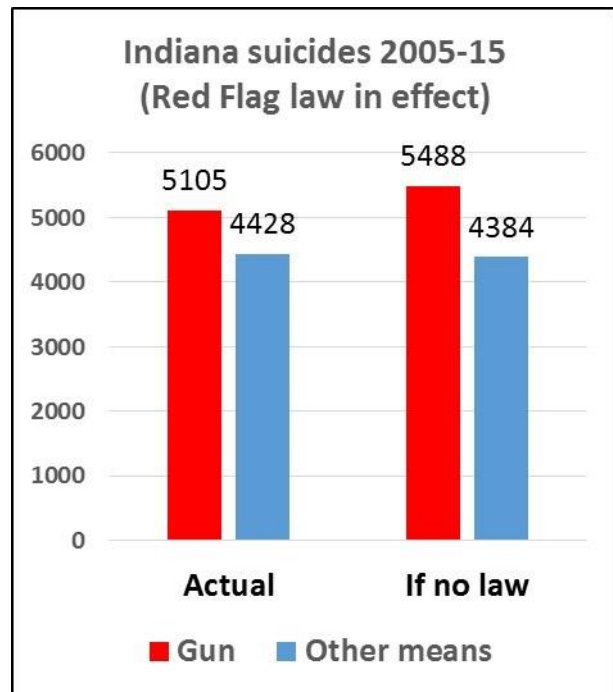


As we mentioned in [Part I](#), Connecticut's unique [Red Flag law](#) authorizes search and seizure. Its effect on suicide was separately computed for two periods: enactment to 2007 and 2007 to 2015, when enforcement sharply increased because of the [Virginia Tech massacre](#). For the first period, the authors reported 1.6 percent fewer firearm suicides than the control group but 5.7 percent more suicides by other means. For the second period the corresponding figures were a 13.7 decrease (matched by few control states) and a 6.5 percent increase (common among the control states). Compared to the controls, the authors estimated that during 2007-2015, when Connecticut suffered 3086 suicides, 933 by gun and 2153 by other

means, its Red Flag law prevented 128 of the former but caused 140 of the latter, increasing the overall toll by twelve, or about .4 percent ($3086 - 12 / 12 \times 100$).

Indiana's Red Flag approach (also reported in [Part I](#)) is more conventional. Its gun to non-gun displacement effect also seemed far milder than Connecticut's. During a ten-year post-law period (2005-2015) the state suffered 9533 suicides, 5105 by gun and 4428 by other means. Compared to the control group, its Red Flag law reportedly prevented 383 gun suicides while causing 44 non-gun suicides, yielding a net decrease of 339 suicides, or about 3.4 percent ($9533 + 339 / 339 \times 100$).

In all, the study praised the tendency of Red Flag laws to reduce gun suicides but warned of increases in non-gun suicides, which seemed particularly pronounced in Connecticut.



Alas, what Red Flag laws can't seem to extinguish is the urge to kill oneself. When deeply troubled persons want to commit suicide, discouraging their access to firearms is not an effective long-term solution. In any event, suicide isn't what these laws were originally intended to prevent. From the very beginning their avowed purpose has been to stamp out the scourge of mass killings that have shaken America to the core.

Yet Red Flaggers aren't your archetypical criminal. Convicted felons and some categories of violent misdemeanants, including those convicted of domestic violence or subject to a domestic violence protective order, [are already prohibited](#) from having guns by state and/or Federal laws. Same goes for persons [who have been formally adjudicated](#) as mentally defective (click [here](#) for a Federal gun law summary then scroll down for the state law chart.) Red Flaggers, on the other hand, are neither fully "criminal" nor fully "crazy." Indeed, their marginal status is precisely why gun seizure laws have come to be. And while the process is conceptually simpler than civil commitment, what's required to use these "obscure" laws may be [far from trivial](#):

Do I think [the law] when it was written, when it was drafted, and how it had been utilized pre-Sandy Hook—was effective? No, I don't believe it was effective. Why? It was an obscure statute. It was something that was labor-intensive. It was

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something that required an affiant, a co-affiant, supervisor's review, State's attorney's office review, and approval and a judge's signature and then, of course, execution on that warrant....(p. 196)

That sentiment, expressed by a former cop, was ridiculed by a police "administrator" who insisted what the entire Red Flag process could be easily accomplished "within a few hours' time":

I mean, most of it is a [three to five] line narrative. You know, "We got a report of a guy wanted to commit suicide. I showed up, he was sitting in the corner with a loaded .357. He said to me, he wanted to commit suicide. I talked to him and he put it down...." The judge's phone rings at two o'clock in the morning, it's us, and one of us drives over there with a warrant. He reviews it, signs off on the bottom of it, we go back and we take all the guns. In the meantime, officers are sitting at the location where all the guns are, and securing it...We get the warrant signed, we go back to the house and we collect everything related to the gun....

These words perplexed your blogger, who spent more than a few hours on the street (albeit, in pre-Red Flag days.) Tying up a beat for hours may be theoretically possible in some places, on a very slow day. One can't imagine trying to do it in smaller cities, where an entire "shift" might mean three cops, or in larger jurisdictions when there's been a shooting or other violent crime and calls are coming in.

There's an even more vexing issue, which neither journal article probed. Prompted by the June 28 [murder of five employees](#) at an Annapolis newspaper, Maryland enacted a Red Flag law, which took effect on October 1. As we mentioned in [Part I](#), on November 5, in the same Maryland county, an officer shot and killed the subject of a seizure order who got into a wrestling match with the cop's partner over a gun.

Stirring up potentially dangerous people is, well, potentially dangerous. Yet Red Flag laws may never meet their goal of preventing a mass shooting unless their use is vastly expanded. But doing it legally *and* safely calls for robust levels of police staffing, with tactical units readily available to lend a practiced hand. Even then, the environment in which cops work is notoriously [chaotic](#). No matter the precautions, crank things up and someone *will* get hurt, or worse, and sooner rather than later. Red Flag laws may be "obscure" for a very good reason.

Posted 3/8/09

REVIVING AN ILLUSION

Reinstating the (original) Federal assault weapons ban is a poor idea

By Julius Wachtel, (c) 2010

It didn't take long for the new man on the block to ruffle the gun lobby's feathers. Less than three weeks after his confirmation, rookie A.G. Eric Holder was holding a news conference to announce a major victory against the violent Sinaloa drug cartel when a reporter's question took him in a dangerous direction. Asked what he would do about the gun smuggling that's been propelling Mexican drug violence, [Holder let slip his intention](#) to once again make assault weapons illegal under Federal law:

As President Obama indicated during the campaign, there are just a few gun-related changes that we would like to make, and among them would be to reinstitute the ban on the sale of assault weapons.

Those few words touched off a firestorm from the "pry it from my cold dead fingers" crowd and sent House Speaker Nancy Pelosi scurrying for cover. "I think we need to enforce the laws we have right now," she said, carefully sidestepping the quarrel. "I think it's clear the Bush administration didn't do that."

Setting aside the obvious political obstacles, let's consider what reinstating the Federal ban would really accomplish. Enacted in September 1994, the law, codified as [Title 18, USC](#), Sections 921(a)(30) and (31) and 922 (v), accomplished three things. First, it prohibited the manufacture, transfer and possession of certain enumerated firearms:

- (i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);
- (ii) Action Arms Israeli Military Industries UZI and Galil;
- (iii) Beretta Ar70 (SC-70);
- (iv) Colt AR-15;
- (v) Fabrique National FN/FAL, FN/LAR, and FNC;
- (vi) SWD M-10, M-11, M-11/9, and M-12;
- (vii) Steyr AUG;
- (viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and
- (ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12.



More broadly, the law banned any semi-automatic weapon that could accept a detachable magazine and possessed *two* or more of certain external characteristics, such as a folding stock, pistol grip, flash suppressor or barrel shroud. Ammunition magazines that could hold more than ten rounds were also outlawed. In a concession that greatly complicated enforcement, existing guns and magazines could continue to be possessed and transferred without restriction.

Manufacturers and importers shrugged. Colt renamed the AR-15 the “Sporter”, removed its flash suppressor and bayonet lug and reworked the magazine so that it could hold only ten rounds. Soon everyone was stripping weapons of meaningless baubles and producing essentially the same guns as before. When the ban, which carried a ten-year sunset clause, came up for re-approval in 2004 it died quietly. Even the vociferously anti-gun [Violence Policy Center](#) saw little reason to support it:

The 1994 law in theory banned AK-47s, MAC-10s, UZIs, AR-15s and other assault weapons. Yet the gun industry easily found ways around the law and most of these weapons are now sold in post-ban models virtually identical to the guns Congress sought to ban in 1994... Reenacting this eviscerated ban without improving it will do little to protect the lives of law enforcement officers and other innocent Americans.

Tired of deferring to the spineless Feds, a handful of States, including Connecticut, New York, New Jersey, Massachusetts and California enacted their own assault weapons laws. California’s actually dates back to 1989, when a deranged man [opened fire in a Stockton school yard](#) with a Chinese AK-47 knockoff, killing five children and wounding 29 and a teacher. Although court challenges slowed enforcement, by 2000 [the Golden State’s laws](#) banned a long list of semiautomatic pistols and rifles. What’s more, any semiautomatic gun with *even one* special characteristic such as a handgrip or folding stock must have a permanently fixed rather than detachable magazine, thus making it far more cumbersome to reload. And in all cases maximum ammunition capacity is set at ten rounds.

But do any of these laws really make a difference? [As we’ve argued elsewhere](#), not one takes on the most important determinant of a gun’s lethality: ballistics. There’s a

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reason for the lapse. Since ordinary hunting cartridges such as the .30-06 are every bit as deadly as any so-called “military” round, setting limits on penetration and killing power -- say, by outlawing rounds that can defeat protective garments commonly worn by police -- would make most semi-auto rifles illegal. Don't believe it? According to the [National Institute of Justice](#), the most protective (hence, cumbersome) ballistic vest normally worn by street cops, designated level III-A, is effective only against ordinary handgun ammunition:

As of the publication of this standard, ballistic resistant body armor suitable for full-time wear throughout an entire shift of duty is available in classification Types II-A, II, and III-A, which provide increasing levels of protection from handgun threats.

Type II-A body armor will provide minimal protection against smaller caliber handgun threats.

Type II body armor will provide protection against many handgun threats, including many common, smaller caliber pistols with standard pressure ammunition, and against many revolvers.

Type III-A body armor provides a higher level of protection, and will generally protect against most pistol calibers, including many law enforcement ammunitions, and against many higher powered revolvers.

Types III [hard and heavy] and IV [harder and heavier] armor, which protect against rifle rounds, are generally used only in tactical situations or when the threat warrants such protection.

Reducing the threat posed by semiautomatic weapons could be addressed with a [point system](#) that incorporates factors such as ballistics, cyclic rate and accuracy at range. Only problem is, most rifle bullets cut through a cop's vest like a knife through butter. To afford meaningful protection we might have to ban semi-auto rifles that chamber anything beyond a .22, a round useful only for plinking. That, in a nutshell, is the dilemma that's kept meaningful restrictions from being implemented.

So why not simply reinstate the Federal ban? Isn't doing something better than nothing? Not always. Enacting laws that bypass the hard issues promotes the illusion that we're doing something about violence, letting legislators take credit while leaving the gun industry free to peddle increasingly lethal hardware. As our country's current

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troubles amply demonstrate, pretending to regulate is even worse than not regulating at all. Alas, that seems to be a lesson that we've yet to learn.

UPDATE (3/11/09): According to police the man responsible for the [Alabama massacre](#) fired more than two-hundred rounds using high-capacity magazines. He was carrying [Bushmaster](#) and [SKS](#) rifles, a shotgun and a handgun. Neither the Bushmaster (one was used in the [Capital Beltway shootings](#)) nor the SKS were banned by Federal assault weapons laws.

Posted 8/8/10

SAY SOMETHING

Is society powerless in the face of mass shootings?

911: "State Police."

Shooter: "Hey, is this 911?"

911: "Yeah, can I help you?"

Shooter: "This is Omar Thornton. The shooter over in Manchester."

911: "Yes, where are you, sir?"

Shooter: "I'm in the building...ah, you probably want to know the reason why I shot this place up. Basically this is a racist place."

911: "Yup, I understand that."

Shooter: "They treat me bad over here and treat all other black employees bad over here, too, so I took it into my own hands and handled the problem. I wish, I wish I could have got more of the people."

By Julius (Jay) Wachtel. Connecticut state trooper William Taylor was overseeing dispatch at Troop H on the morning of August 3rd. [when a call came in](#) from the man who just [gunned down eight co-workers](#) at a Manchester liquor warehouse. It seemed that the killer couldn't wait to justify his brutal act and bemoan what he considered a low body count.

Omar Thornton, 34, had quit his job minutes earlier after watching a private investigator's video depicting him stealing beer from his delivery truck and placing it in a car. After resigning he went to the kitchen on a pretext, retrieved two 9mm pistols from his lunch box and exited, guns blazing. He ultimately holed up in a corner of the plant and dialed 911. Four minutes into the call, as a police SWAT team closed in, he set down the phone and put a bullet in his brain.

Thornton, a gun enthusiast, frequented a nearby shooting range. He had a shotgun in his car and more weapons at his home. All had been legally purchased.

Shootings by purportedly "ordinary" people have become such a common feature of American life that we seldom give them much thought. Here are some of this year's other examples:

[July 12, 2010 – Albuquerque, New Mexico.](#) An armed man walked into a plant where he once worked and shot six persons, killing two, then turned the gun on

himself. Robert Reza, 37, had recently split up with his live-in girlfriend, who was still employed there and whom police suspect was his main target. She was gravely wounded.

[June 6, 2010 – Hialeah, Florida](#). A man with a .45 pistol shot and killed his estranged wife outside the restaurant where she worked, then burst inside, killing three female employees and wounding three. He committed suicide when police arrived. Gerardo Regalado, 38, was despondent about his failed relationship and apparently angry at women.

[May 6, 2010 – South L.A. County, California](#). A man armed with an assault rifle broke into a home and fired numerous rounds, killing his former girlfriend, her brother and their father and wounding two others. Joseph Mercado, 26, then set out to burn down the house. He might have succeeded had he not been confronted by a patrol deputy who heard the gunfire. Fortunately, the officer also had an assault rifle and wounded Mercado. The killer's excuse? He was mad at his ex about a child custody dispute.

[April 14, 2010 – Chicago, Illinois](#). A 32-year old man shot and killed his pregnant wife and infant son, a pregnant 16-year old niece and a 3-year old niece and critically wounded his mother and a 13-year old nephew. He also fired a round at his fleeing 12-year old niece but missed. Finally out of ammo, James Larry asked cops to shoot *him*. They didn't.

[January 17, 2010 – Appomattox, Virginia](#). A man shot and killed eight persons, including his sister and brother-in-law and their two children, then fired on officers and a police helicopter, puncturing its fuel tank and forcing it down. Christopher Speight, 39, a sometime security guard, had dozens of guns on his property, including a number of assault rifles. He also had an assortment of homemade bombs.

[January 7, 2010 – St. Louis, Missouri](#). A heavily armed worker stormed into a manufacturing plant and started blasting away. Timothy Hendron, 51, a thirty-three year employee, was armed with an assault rifle, a shotgun and two pistols and wore a fanny pack stuffed with extra ammunition. By the time it was over he had slain three co-workers and wounded five. Hendron was one of the plaintiffs in a lawsuit against the firm and was having conflicts with superiors.

Not enough? Going back to 2009, remember the [North Carolina man](#) who went to the nursing home where his estranged wife worked and shot eight dead and wounded three,

including a police officer? How about the [Alabama man](#) who armed himself with two assault rifles, a handgun and shotgun and killed his mother, seven relatives and two bystanders and wounded six more, including two cops? Or, in 2008, the [Kentucky man](#) who settled an argument about workplace safety by getting a .45 pistol and killing his boss and four others?

And on and on. Editorial reactions to the carnage run the gamut from [bitter denunciations](#) of our firearms-obsessed culture to limp pieces that bemoan the tragedies but offer little in the way of a remedy. In an otherwise thoughtful [commentary](#) about the Timothy Herndon massacre, St. Louis Post-Dispatch columnist Bill McClellan took such pains to prove that he's no reflexive gun-hater that even after what happened in his city he endorsed (for others) the idea of bringing guns to work for protection. "I say sure. If it makes you feel better, go ahead."

But will these firearms be wisely used? To paraphrase the gun lobby's favorite jingle, (inanimate) guns don't kill people, (fallible) people do. From what he wrote, Mr. McClellan would have probably said "go ahead" to Omar Thornton, Robert Reza, Timothy Hendron and Wesley Higdson (the Kentucky killer.) He would have probably been fine with arming the others, too.

Indeed, there's no indication that any of the killers bought their guns intending to misuse them. Several, including Thornton, the Manchester shooter, were gun aficionados. Yet in fits of anger, jealousy and just plain craziness, misuse them they did. In the end, it was the presence of a firearm at a particular point in time that made all the difference. Summarizing [recent findings](#) that weak gun laws and high rates of gun ownership lead to more gun deaths, the Violence Policy Center's Kristen Rand said, "The equation is simple. More guns lead to more gun death, but limiting exposure to firearms saves lives."

Well, that's fine. Yet the unmistakable trend is in the direction of making guns available to everyone, all the time. Perhaps it's time to tackle the threat posed by gun misuse as we do with other causes of death, say, impaired driving. In 2007 41,259 persons were [killed in traffic collisions](#), including 29,072 occupants of passenger motor vehicles. DUI's (BAC of .08 and above) figured in 13,041 deaths. According to the [CDC's injury reporting system](#) there were 31,224 deaths from firearm injuries during the same period. Ninety-seven percent (30,335) were violence-related, meaning purposeful; fifty-six percent (17,352) were suicides.

With more people having and carrying more guns you and I and our families are at increasing risk of being shot by someone who may suddenly go berserk. Counting on

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armed citizens to come to the rescue is delusional – in fact, they’re part of the problem. So here’s an idea. Let’s use the White House as a bully pulpit for a national campaign to remind everyone – gun owners, their friends, family members and co-workers – that guns and anger are a lethal combination. “Friends don’t let [angry] friends pack guns.” “If your [angry] friend has a gun, say something.” Take out ads in print and on TV, put up billboards, place posters at gun stores and firing ranges. It’s something worth considering.

Posted 1/17/08

SHOOT FIRST...THEN RELOAD!

By Julius Wachtel, (c) 2010

[“Bad people are going to get away with murder.”](#) That’s what a Missouri prosecutor said after changes in State law reluctantly led him to accept a plea for involuntary manslaughter from a defendant he was certain was guilty of murder. Under pressure from the NRA and a newly energized, gun-toting public more than a dozen States have enacted “stand your ground” laws in the last two years. Also called “Castle” laws, the statutes typically declare that anyone who unlawfully enters a home or vehicle is presumably a threat to its legitimate occupants, and authorizes those lawfully present to use deadly force to repel the invader, with no duty to back down, and with full immunity from lawsuits and prosecution.

Now many States, including [Missouri](#), [Florida](#) and [Texas](#) have extended the doctrine from homes and vehicles to wherever someone happens to legally be, in effect giving private individuals the same authority to use deadly force as a peace officer. Opposing the legislation, Texas prosecutors unsuccessfully [argued](#) that it could make it difficult to prosecute gangsters and trigger-happy persons who kill maliciously or needlessly. Their predictions seem to have come true. Eight months later a cranky old Texas man toting a shotgun ignored a 911 dispatcher’s pleas and [fired on two burglars](#) leaving his neighbor’s house, killing both (they turned out to be unarmed). Naturally, the shooter, whom his attorney says is deeply remorseful, now claims that he felt threatened. And since one of the burglars was struck full-on in the chest, who’s to say otherwise? The case presently sits in the DA’s office, which will decide whether to present it to a grand jury.

Similar dilemmas are playing out elsewhere. [In a single week in late 2007](#) residents of Jackson, the Mississippi state capital, shot two suspected burglars dead and wounded a third. Each episode was found to be in compliance with Mississippi’s self-defense laws, which were revised in 2006 to provide that anyone who unlawfully enters a home, vehicle or place of business presumably intends to harm its occupants and can be repelled with deadly force (Mississippi code, 97-3-15). Interestingly, one of the shooters, a convicted felon, faces Federal prosecution after ATF agents who learned of the incident searched his home, finding a gun and drugs.

Are these new laws a good thing? Many think not. Upset that [Kentucky’s Castle law](#) forced a plea bargain in what seemed a legitimate murder case, a [State judge](#) complained that the legislation was enacted “without a single attorney looking at it.” Her

opinion -- that the legislation was superfluous, as the legitimate use of self-defense is already permitted by law -- has been echoed by law enforcement, prosecutors and gun control advocates, who worry that liberalizing self-defense laws will promote violence.

On the other hand, the line between necessary and excessive force can be blurry. According to the [NRA](#), a main purpose of Castle laws is to keep citizens from being needlessly sued and prosecuted. There's no question that some otherwise law-abiding citizens have gone to prison despite offering plausible claims of self-defense. In 2006 an Arizona jury convicted [Harold Fish](#) of second-degree murder for shooting and killing a hiker whom Fish claims attacked him after he fired a shot to warn off one of the man's dogs. In sentencing Fish to the minimum possible term -- ten years without parole -- the judge said "this case does give new meaning to the word tragedy. I do believe [the defendant] reacted out of fear and instinct when he shot and killed Grant Kuenzli. He made a split second decision with tragic consequences."

In an increasing number of States "stand your ground" laws and liberal CCW rules give virtually every citizen without a felony conviction the tools and authority to use deadly force whenever and wherever they choose. Considering the the pitifully minimal screening that concealed-carry laws require, and the kinds of characters who would sling arms while going to the drugstore and the movies, one has to be concerned with the consequences of encouraging these would-be Rambos to play cop.

Oh, yes. In the interests of full disclosure, LiberalPig never "packed" when off-duty and happily gave up his toys when he retired.

Posted 3/14/10

SHOOTOUT AT TIMES SQUARE

***As the Supreme Court gets set to expand firearms rights,
an out-of-State gun brings havoc to the Big Apple***

By Julius Wachtel, (c) 2010

“It’s my first day in New York, so it makes very real what you see in the movies.” What [Suzanne Davis](#) captured on video wasn’t what she originally intended. In addition to the usual touristy scenes the Australian visitor would be taking home sobering images of a young man sprawled lifelessly on the pavement, a fearsome-looking pistol and detached magazine lying inertly nearby.

During the morning hours of December 10, 2009 NYPD plainclothes officers working Times Square approached two peddlers to ask for their permits. Raymond Martinez, 25, bolted. He was chased by Sergeant Christopher Newsom. Martinez suddenly stopped. Drawing a gun from his coat he pointed it at the officer and repeatedly squeezed the trigger. Just steps away and with nowhere to hide, the 17-year police veteran instinctively pulled his pistol and fired four times.

Miraculously, Martinez’s first two rounds missed. His gun then jammed, reportedly because [turning it sideways, hoodlum style](#) didn’t let empty cartridges eject. For the cop that was a very good thing, as Martinez’s gun held *twenty-seven* more rounds.

Sgt. Newsom didn’t miss. Each of his bullets struck Martinez, killing him.

Martinez was well known to police. Cited not long before for unlicensed peddling, he was wanted for disorderly conduct and in connection with an assault. Known on the streets as “Ready,” the would-be hip-hop artist had recently composed a rap tune whose lyrics now seem oddly prophetic:

*If they call the cops, then I'm aiming at the sergeant, like aiming at my target,
and sure that f---ing dirty pig will feel it the hardest.*

Martinez’s gun, a [Masterpiece Arms](#) MPA930T top-cocking, semiautomatic 9mm. pistol is a dead ringer for a MAC-10 machine pistol, the gangster’s favorite it was designed to imitate. Authorities traced the weapon to [Dale’s Guns](#), a retailer in Powhatan, Virginia. Its owner, [Dale Blankenship](#), said that the gun was purchased by a

female customer on October 18, 2009. As the law requires, she displayed Virginia ID and passed an in-store criminal record check.

Ten days later she reported to police that the gun had been stolen from her vehicle.

As we pointed out in an [earlier post](#), New York State, which requires that handguns be licensed, grants localities broad discretion to determine who should get a permit and under what circumstances. [New York City](#) makes it virtually impossible for an ordinary person to obtain permission to have a handgun in the city.

That may soon change. Washington, D.C. also used to prohibit handguns. But two years ago, in [District of Columbia v. Heller](#), the Supreme Court invalidated the law. Whether its reasoning – that bearing arms is an individual right, independent of membership in a State militia – extends to non-Federal areas is the subject of [McDonald v. City of Chicago](#), a challenge to that city's handgun ban. If, as most assume, the Justices rule against Chicago, New York City is next.

Local handgun bans have always been an imperfect solution. Since most states don't vigorously regulate gun purchases, it's easy for traffickers to acquire guns for resale where they're prohibited. [Police recovered 5,129 guns](#) in New York City in 2008, including 4,243 handguns. Of the 2,758 that could be traced, 2,413 (87.5 percent) were first sold in another state. Overall, the top five sources were Virginia (372), New York (345), Georgia (252), North Carolina (251), and Pennsylvania (247).

A [2008 report](#) used [ATF gun recovery and trace data](#) to estimate state export/import ratios. The top five destination states were New Jersey (1:50, or one NJ gun recovered elsewhere for every *fifty* external guns recovered within), New York (1:14.3), Massachusetts (1:11.1), Rhode Island (1:6.3) and Illinois (1:5.9). Top source states include New Hampshire (4.6:1, or nearly five NH guns recovered elsewhere for each external gun recovered within), West Virginia (4.2:1), Mississippi (3.7:1), Arkansas (3.1:1), and South Carolina (2.5:1).

New York City's arch-nemesis, Virginia, was the tenth largest source state (2.1:1). [With its legislators now poised](#) to strike a long-standing rule limiting handgun purchases to one a month, it should soon move up in the rankings.

[Federal law](#) offers little hope to areas besieged by outside guns. Although it's only legal to buy guns in one's state of residence, Federal law doesn't restrict quantity. Private party transfers are also unregulated. That's right – if a transaction doesn't involve a licensed gun dealer, the Feds require no paperwork or criminal record checks.

And while it's illegal to give guns to felons, underage persons or residents of other states, lacking reporting or recordkeeping requirements compliance is impossible to monitor.

An [ATF study](#) reviewed 1,530 gun trafficking investigations conducted between 1996-98. Straw purchase – buying guns at dealers on behalf of others – was the most common way to illegally convey guns. Many straw purchasers were friends or intimates of persons whose age or criminal record disqualified them from buying a gun. Some straw buyers were working for gun traffickers, while others were themselves traffickers.

A [report](#) by Mayors Against Illegal Guns indicates that straw purchase is common in states with weak gun laws. In 2006 New York City sent pairs of private investigators – males posing as intended possessors, females posing as straw buyers – to sixty gun stores in five states that have a reputation as gun sources: Georgia, Ohio, Pennsylvania, South Carolina and Virginia. Fifteen dealers were caught on camera handing guns to the males while their partners filled out the paperwork.

[New York City sued](#). Several gun stores eventually settled, agreeing to monitor purchases with video cameras and to train their staff to recognize the indicators of a straw purchase. But Virginia Attorney General Bob McDonnell was furious. He promptly got legislators to [make it a felony](#) for non-law enforcement agents to play a ruse on gun dealers. NYC Mayor Michael Bloomberg shrugged. “We wish,” said his aide, “that Attorney General McDonnell was as aggressive in enforcing the laws that prevent illegal guns from getting in the hands of criminals as he was in enforcing the laws that protect the gun lobby.”

So what about the Times Square pistol? [NYPD Commissioner Raymond Kelly](#) confirmed that its buyer, ostensibly a Virginia resident, had ties to New York City. “Whether or not that is a legitimate theft is a matter that's being investigated. We do see a pattern of people buying guns and then reporting them stolen. That may in fact be a method used here, as far as a straw purchase is concerned.” Meanwhile ATF is investigating how the gun wound up on the streets of Gotham. “Anything less than two years is a very important indicator that a weapon could be part of an interstate trafficking organization,” a spokesman said. “If we can use this case to intercept other guns before they hit the streets of New York, we've succeeded.”

Posted 7/14/17

SILENCE ISN'T ALWAYS GOLDEN

A proposal to deregulate firearm silencers ignores the hazards of policing

By Julius (Jay) Wachtel. America is a nation of laws – and of a myriad of regulations that carry the force of law. But to plagiarize [Bob Dylan's famous aphorism](#), the times, they are *definitely* a-changin'. On February 24 President Trump signed an [executive order](#) that seeks to bring the fifty-volume [Code of Federal Regulations](#) to heel. Every Federal agency [has been tasked with searching for and destroying regulations](#) that may impinge on the economy, are “outdated, unnecessary, or ineffective,” or “rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility”:

We have begun a historic program to reduce the regulations that are crushing our economy -- crushing. And not only our economy, crushing our jobs, because companies can't hire. We're going to put the regulation industry out of work and out of business.

Of course, what to some may be a clear improvement may to others seem an abomination. Democrats are vigorously complaining about moves to banish or suspend rules that, for example, [require investment advisors to act in their clients' best interests](#), extend safeguards against pollution [to small waterways](#), and mandate that for-profit colleges [be held accountable](#) for their students' success in finding employment. (To see what's up in the deregulatory wars visit the Federal portal at [regulations.gov](#).)

In this badly polarized land, conflict is to be expected. What we didn't anticipate, though, was that in its zeal to implement the President's deregulatory vision a Federal law enforcement agency would suggest doing away with a real, long-standing law that helps cops stay alive.

On Sunday evening, July 9, New York State trooper Joel Davis [responded to a report of gunfire](#) at a rural residence. Trooper Davis parked his cruiser a distance away, radioed that he heard shots being fired and exited the vehicle. Moments later an active-duty Army NCO opened fire with a rifle. One round struck Trooper Davis to the side of the ballistic plate in his armored vest, piercing the garment and inflicting a fatal wound.

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Other officers quickly arrived and subdued the gunman. They found the bodies of trooper Davis and of Walters' wife and also rendered aid to a woman who had suffered a non-life threatening gunshot wound.

Trooper Joel Davis, 36, is survived by a wife and three children.

Individuals with military training have been using rifles to kill cops with some regularity. On July 7, 2016 a 25-year old Army veteran ensconced himself in a Dallas office building and [opened fire with an AK-style rifle](#) on police monitoring a protest. By the time it was over five officers were shot dead and nine others and a civilian lay wounded. Two weeks later, on July 17, 2016 two Baton Rouge police officers and a sheriff's deputy [were gunned down](#) by a Marine Corps veteran armed with an AR-type rifle.

Actually, rifles can extend anyone's lethal reach. On October 8, 2016 a 26-year old ex-con [fired an AR-15 rifle through his home's front door](#), killing two Palm Springs, California police officers and wounding a third. They were there because of a "simple family disturbance." More recently, in "[A Lost Cause](#)" (see below) we discussed the recent notorious episode when a middle-aged madman with a rifle wounded four members of the House at a Congressional baseball practice.

That post, and the others linked below, remarked on the devastating wounding potential of long-gun ammunition and, as well, its ability to defeat ballistic garments commonly worn by police. Making things worse, rifles also enable skilled and not-so-skilled marksmen (so far, they've all been men) to do their dirty deeds from a distance.

Click [here](#) for the complete collection of gun control essays

Considering all this, why on Earth would my beloved ATF, which I proudly called "home" for twenty-three years, suggest that the Federal law that constrains the possession and transfer of silencers [ought to be repealed](#)?

According to [a reveal by the Washington Post](#) that's exactly what the agency's number two official, [Associate Deputy Director Ronald B. Turk](#) suggested in January. Here's an extract from his "not for public distribution" memo:

On average in the past 10 years, ATF has only recommended 44 defendants a year for prosecution on silencer-related violations; of those, only approximately 6 of the defendants had prior felony convictions. Moreover, consistent with this low

number of prosecution referrals, silencers are very rarely used in criminal shootings. Given the lack of criminality associated with silencers, it is reasonable to conclude that they should not be viewed as a threat to public safety necessitating NFA classification, and should be considered for reclassification under the [law].

Agent Turk's "White Paper" goes well beyond silencers. Among other things, it recommends that the Feds remove restrictions on the manufacture and retail sale of (believe it or not) armor-piercing rifle ammunition, which he also declares is "not associated with criminal use."

Of course, the reason why silencers and AP ammo seldom turn up in crimes may be precisely because legal restrictions have discouraged their use. Unlike AP ammo, silencers are in fact not "banned" [but may be purchased from specialist dealers](#) upon paying a \$200 transfer tax and submitting to a fingerprint check. (Incidentally, forget about the myth of building a silencer from instructions on the Internet. To be safe and effective firearms suppressors must be precisely designed and accurately machined from reliable stock. That's hardly a trivial task.)

Why would ordinary, law-abiding citizens bother with silencers in the first place? According to the NRA, [which wrote approvingly](#) of agent Turk's memo, it all boils down to [noise](#). Reducing a gun's sonic footprint greatly lessens the chance of damaging one's hearing and supposedly leads to "happier neighbors." Reducing recoil and flinching also promises greater first-shot accuracy, enhancing one's ability to defend against violent criminals and making hunting more "humane."

Naturally, silencers don't get to choose who's at the trigger. So their benefits should also accrue to bad boys and girls. Just imagine the dilemma that cops would face when fired on by a silencer-equipped sniper, and particularly in an urban setting, where the ambient din easily drowns out whatever sounds might escape suppression. How many officers would have to die before the threat could be located and neutralized?

It's not just about long guns. Until bodies start visibly piling up, how would anyone know that a shooter wielding a suppressed pistol is on the loose? Would you dial 9-1-1 if you heard "thuds" next door? How about from across the street? At what point would officers responding to a "routine" call realize that bullets were flying? When a windshield shattered? And forget about reaping the benefits of increasingly popular [gunfire-detection technology](#), such as what [alerted Fresno police to a mass shooting](#) on April 18.

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But please don't judge an agency by one memo. This admittedly biased retiree fondly remembers a well-spent career chasing gun traffickers and has always taken pride in ATF's work. To avoid compromising former colleagues he avoided sharing this post in advance. But unless the times have indeed changed remarkably, he knows exactly what street-level agents think of that appalling "White Paper."

It's *not* flattering.

Posted 1/11/11

THE ELEPHANT IN THE ROOM

Restrict the possession of “ordinary” guns or get used to regular massacres

By Julius (Jay) Wachtel. “I have a Glock 9 millimeter, and I’m a pretty good shot.” That’s what Congresswoman Gabrielle Giffords (D - Ariz.) [told a New York Times reporter](#) last year. Only months later she would be fighting for her life, [shot through the head](#) with the same brand and caliber of pistol.

On January 8, Jared Loughner, 22, opened fire with a Glock 9mm. pistol during the Congresswoman’s “Congress on your Corner” event at a Tucson supermarket. The unemployed, sometime student – he got booted from college for disruptive behavior – killed six, including a 9-year old girl and a Federal judge. He wounded thirteen, including Ms. Giffords.

Loughner was tackled by citizens while reloading his pistol. A search of the home where he lived with his parents [yielded a prior letter](#) from the Congresswoman and several notes suggesting his intent to carry out the assassination.

By any measure Loughner is a very sick puppy. His MySpace account was full of disconnected thoughts and delusional ramblings about off-the-wall subjects like government thought control. He wrote about returning to the gold and silver standards – with him in charge of the Treasury. “Mein Kampf” was listed as one of his favorite books, which might seem insignificant until one considers that his intended target, Ms. Giffords, is active in Judaism.

Loughner fits the archetype of the murderous loner to a tee. [Past acquaintances described him](#) as odd and reclusive. His in-class rants at Pima Community College frightened classmates and instructors. A video he posted about the college was the last straw. He and his parents were called in and told that Loughner couldn’t return unless he was psychologically cleared. In his one known run-in with the law police cited him for scrawling the letters “C” and “X” on a street sign, which he said symbolized Christianity.

Loughner might have been a very odd duck, but he was nonetheless qualified under [Federal law](#) to buy a handgun. He was a legal U.S. resident, over 21 years of age (the minimum to buy a handgun), not a convicted felon, not under indictment, and was

never adjudicated (meaning, in court) as mentally defective. [On November 30, 2010](#) Loughner walked into Sportsman's Warehouse in Tucson and purchased a Glock 9mm. pistol. Arizona has no state waiting period or gun-training requirement, so Loughner left with the gun right after passing the criminal record check. Oh, yes. Thanks to [a 2010 amendment to state law](#), as a legal possessor over the age of 21 [he was also automatically entitled](#) to carry the weapon either openly or concealed on his person, no permit required.

But it's not just Arizona. Ordinary handguns like the Glock 9mm. can be purchased anywhere in the U.S. In California, which is considered the most restrictive state – magazine capacity is limited to ten rounds and a permit is required for concealed carry – buyers must pass a brief safety exam and wait ten days to pick up their gun. And that's it.

It's really quite convenient.

Actually, what most stands out about the events in Tucson are their ordinariness. In ["Say Something"](#) we pointed out that "shootings by purportedly 'ordinary' people have become such a common feature of American life that we seldom give them much thought." Troubled young males who use guns to give vent to their demons are nothing new. Prior examples include the [April 1999 Columbine \(Colo.\) High School massacre](#), where two male students killed 13 and injured 21, the [March 2006 Capitol Hill massacre](#), in which a deranged 28-year old man opened fire at a youth party in Seattle, killing six and wounding two, and the April 2007 [massacre at Virginia Tech](#), where a mentally disturbed 23-year old college senior killed 32 and wounded 25.

Virginia Tech has remarkable parallels to the Tucson massacre. Its perpetrator, Sung Hui-Cho, was armed with two pistols that he had recently bought at gun stores. One was a Glock 9mm (the other was a Walther .22). Cho also had mental problems; indeed, his were so serious that a judge had ruled him mentally ill. Unfortunately, Virginia's procedure for entering that information into the database used to clear gun purchases was lacking, enabling Cho to buy guns.

Reaction to the Tucson shooting was swift. Many observers, including outspoken Pima County Sheriff Clarence Dupnik, [laid blame on a "toxic political environment"](#) that replaced reasoned discourse with posturing and threats. During last year's Congressional races Sarah Palin's political action committee televised ads to which Congresswoman Giffords objected: "The way that she has it depicted has the cross hairs of a gun sight over our district. When people do that, they've got to realize there's consequences to that." Sheriff Dupnik and others [also blame lax gun laws](#) and the

expiration of the assault weapons ban, which also prohibited high-capacity ammunition feeding devices such as the 30-round magazines used by Loughner.

But if we're seeking to prevent wackos from going on a rampage, all the half-hearted "bans" and regulatory initiatives in the world would make little difference. Ordinary guns are the elephant in the room. Medium-caliber semi-auto pistols such as the Glock 9mm. are exceedingly lethal regardless of magazine capacity. And that's to say nothing of the increasingly popular and even more deadly .40 caliber pistols (yes, Glock makes those, too.) Or the wildly popular "[Big Boomer](#)" handguns, whose projectiles pierce ballistic vests as easily as knives cut through butter.

What's needed, of course, is a fundamental reset in our attitude about firearms. Unfortunately, guns, politics and ideology have become impossibly conflated. What's more, in 2008 the Supreme Court decided in [Heller](#) that having a gun, at least in the home, is an individual right. While the Justices suggested that they would support "reasonable" regulation, their decision put proponents of gun control on the defensive. It's no longer about moving forward: it's about not losing any more ground.

Bottom line: without severely restricting the kinds of guns that citizens can possess (which, by the way, isn't going to happen) there's no way – none – to prevent massacres. Don't believe it? Read the posts linked below.

Posted 10/23/11

THERE'S NO ESCAPING THE GUN

A prosperous community discovers that mass murder is an equal opportunity threat

By Julius (Jay) Wachtel. A paunchy middle-aged man turned away from the grisly scene and headed for his car. Eight were dead or dying, including his ex-wife. [Scott Dekraai](#) had just set a record that would go down in infamy.

Acquaintances said that Dekraai, 41, had been a pleasant, easy going man until a 2007 tugboat accident that killed a shipmate and left him partly disabled. His life quickly unraveled. Within months a court order was filed directing him to stay away from his father in law, who claimed that Dekraai had beat him up. (The order, which required that Dekraai temporarily give up his guns, expired one year later.) Dekraai's wife Michelle, a hair stylist, filed for divorce, and they became embroiled in a child custody dispute that would drag on for years. [She told coworkers](#) at a beauty salon that she feared he would kill her.

No one took it seriously. After all, this was Seal Beach, a tony Southern California coastal community of 25,000 where such things don't happen. Who could predict that Dekraai would don a bulletproof vest, [invade Salon Meritage](#) and blaze away with three large-caliber pistols?

But on October 12, 2011 that's exactly what he did.

"He stopped to reload, and then continued gunning people down," said Orange County D.A. Tony Rackauckas. "He was not satisfied with murdering his intended target, his ex-wife. For almost two minutes, Dekraai shot victim after victim, executing eight people by shooting them in the head and chest. He was not done. He then walked out of the salon and shot a ninth victim, a male, who was sitting nearby in a parked Range Rover."

In addition to Michelle, who was first to be gunned down, Dekraai murdered the shop owner, Randy Fannin, stylists Victoria Buzo and Laura Elody, Christie Wilson, a nail artist, customers Michele Fast and Lucia Kondas, and David Caouette, 64, a passer-by whom Dekraai encountered in the parking lot. Laura Elody's mother Hattie Stretz, who was visiting the salon, was gravely wounded but survived.

Dekraai (he quickly surrendered) wasn't a criminal in the conventional sense. Neither was Orange County's previous record holder. In 1976 [Edward Charles Allaway](#), a 37-year old custodian at Cal State Fullerton, turned a semiautomatic rifle he bought at K-Mart on fellow employees, killing seven and wounding two. Allaway's wife had just sued for divorce. Psychiatrists diagnosed him as a paranoid schizophrenic. He was found not guilty by reason of insanity and committed to a mental hospital, where he remains to the present day.

Los Angeles County's mass murder record is held by [Bruce Pardo](#). He, too, was no ordinary criminal. On Christmas eve 2008 the 45-year old, freshly divorced engineer barged into the residence of his former in-laws with five pistols and a homemade flamethrower that he had concealed under a Santa suit. By the time he was done nine were dead including his ex-wife, her parents, a sister, a nephew, and two brothers and their wives. Like Dekraai and Allaway, Pardo had no criminal record. Unlike them, he had the good sense to kill himself.

Learning theory says that behavior is shaped by watching others. While America isn't the only place where disturbed persons use guns to release their demons (keep in mind the recent massacre in Norway) the frequency of these events – what we've referred to as their "ordinariness" – suggests that there's a lot of monkey-see, monkey-do going on in the U.S.A. In March we wrote about the [Tucson massacre](#), where an college dropout with mental issues shot and killed six and wounded thirteen including Congresswoman Gabrielle Giffords (D - Ariz.) A post in August 2010 spoke of a disaffected truck driver [who shot and killed eight co-workers](#) after being fired for stealing beer. We took that opportunity to review six other multiple-victim shootings between January and July 2010 that seemed motivated by no purpose other than letting off steam.

Here is an update. Keep in mind that this is only a sample, as to list all such incidents would take a lot more than a blog post.

[10/18/11](#): A New York man facing a divorce trial beat his estranged spouse to death and used a shotgun to kill their two children, Molly, 10, and Gregory, 8. Samuel Friedlander, 50, then shot himself dead.

[10/6/11](#): A "well liked" but disgruntled Northern California truck driver opened fire on coworkers with a handgun and a rifle, killing three and wounding six, some critically. Shareed Allman, 46, then tried to carjack a vehicle, wounding its driver. He was later shot and killed by police.

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9/7/11: Disturbed by a failing relationship, a West Virginia man shot and killed five persons inside a home. Shayne Riggleman, 22, then ran over a motorist and critically wounded a gas station attendant. He committed suicide as police closed in.

9/6/11: A Nevada man opened fire with a rifle at a Carson City retail center and inside an IHOP restaurant, killing four and wounding seven. He then killed himself. Eduardo Sencion, 32, was said to have “mental issues.” His motive is unknown.

8/7/11: Angered by comments about the appearance of a home where he lived with his girlfriend, Ohio resident Michael Hance, 51, went on a shooting rampage. He killed seven and wounded two before police shot him dead.

7/24/11: A stormy relationship ended at a roller rink, where the husband shot and killed his wife and four of her family members. He also wounded four others. Tan Do, 35, then turned the .40 caliber Glock on himself.

7/11/11: Wyoming man Everett Conant III, 36, shot and killed his three teenage boys and his 33-year old brother inside the mobile home where they lived. He also seriously wounded his wife. A former employer said that Conant was having personal problems. Police arrested him without incident.

7/8/11: Angered by his wife’s decision to leave him, a reportedly bipolar 34-year old ex-con with a violent past shot and killed her, their daughter and his in-laws. He then went gunning for others, killing a former girlfriend, her sister and the sister’s daughter. Rodrick Dantzler then took his own life.

6/13/11: Barred by a restraining order from visiting his children, Maine resident Steven Lake, 37, grabbed his shotgun, went to his estranged wife’s home, and shot and killed her and their two children. He then committed suicide.

11/14/10: A 29-year old Pennsylvania man shot the mother of their three children, then shot the kids and himself. A two-year old was the sole survivor. The “sweet” couple had reportedly been arguing.

9/27/10: A 41-year old Florida man ignored a restraining order and went to the home of his estranged wife. He shot and killed her and four stepchildren, ages 10 to 14, and wounded a 15-year old. He committed suicide as officers arrived.

[9/11/10](#): Enraged that his eggs weren't cooked right, a rural Kentucky man "not known to be a violent person" used a shotgun to murder his wife and four neighbors. He then turned the weapon on himself.

[9/1/10](#): A few days after being arrested for violating a restraining order a California man shot six persons in an Arizona resort city, killing five including his estranged spouse. He returned with two children to California, where he committed suicide. The children were unharmed.

We've long argued that the availability of guns overwhelms our ability to prevent their misuse. [According to the NRA](#) there are nearly 300 million firearms in the U.S., including 100 million handguns, with about 4 million new guns entering circulation each year. That may actually be an underestimate. According to ATF in 2010 [American gun makers produced](#) a whopping 5,403,714 firearms. Only four percent were exported.

Here's one old refrain: "Guns don't kill people, people kill people." Here's another: "Let's enforce the laws we have." Federal and state laws bar convicted felons, persons adjudged as mentally defective and individuals under active restraining orders from possessing firearms. But our examples aren't about ordinary criminals. Our chronology of terror includes only one ex-con. True, some of the shooters were emotional basket cases, yet none had been adjudicated mentally ill, the threshold before laws kick in. And while three were under active restraining orders, trusting in a piece of paper to convince an embittered man (all the killers were male) to give up his guns seems a very, very long shot.

It's for such reasons that the NRA promotes gun carry laws. Armed citizens, it insists, can keep shootings from happening in the first place. Well, good luck with that. An armed citizen was present at the [Tucson massacre](#). He didn't intervene, partly for fear that he might shoot an innocent person, and partly because responding officers might shoot *him*. As for the episode in Seal Beach, it would have taken snipers lying in wait to repel Dekraai's attack. And what's to be done about the many incidents that take place inside a home? Should family members pack guns to the dinner table? Should spouses always be armed? And when it's time to go night-night, who puts away their Glock first?

Carrying pro-gun arguments to their inevitable, ridiculous conclusion highlights the profound intractability of America's gun dilemma. But while we can't rely on the law to work miracles, maybe we can promote the notion of watching one's temper and using guns wisely.

Consider, for example, that the UCR attributes at least [one in four homicides in 2010](#) to “arguments,” and that these led to the deaths of 323 wives, 60 husbands, 28 mothers, 62 fathers, 39 sons and 15 daughters. [NIJ](#) reports that about 1.3 million women and 835,000 men are assaulted by an intimate partner each year, and that as many as half of all female homicide victims ([2,918 women were feloniously slain in 2010](#)) were murdered by their partners.

Domestic murder-suicide has become such a common occurrence that it merits [its own NIJ page](#). As one might expect, virtually all are by gun: “More incidents of murder-suicide occur with guns than with any other weapon. Access to a gun is a major risk factor in familicide because it allows the perpetrator to act on his or her rage and impulses.” According to the [Violence Policy Center](#) there were 591 such deaths during the first six months of 2005. Three out of four involved an intimate partner, and three out of four happened at home. Researchers coined the category of “family annihilator” to describe men who go berserk and gun down everyone, including the kids and the dog. Nearly all (92 percent) of murder-suicides are done with guns, so their availability is thought crucial:

The most common catalytic component in murder-suicide is the use of a firearm. Firearms allow shooters to act on impulse...The presence of a gun allows the offender to quickly and easily kill a greater number of victims. If there had not been easy access to a firearm, these deaths may simply have been injuries, or not have occurred at all. Efforts should be made to restrict access to firearms where there is an increased risk of murder-suicide, for example where an individual has a history of domestic violence and/or has threatened suicide.

Well, good luck with that, too. We'll instead peddle our favorite remedy, a national campaign to alert the public to the problems of gun violence. Let's remind everyone that rage and guns are a lethal combination and that early intervention by friends, family members and mental health professionals is the best preventive.

Friends may not be able to keep angry friends from owning guns, but they can surely do *something*. In our gun-crazed culture there is really no alternative.

Posted 3/4/12

TURN OFF THE SPIGOT

As guns flood our communities, trying to change hearts and minds is a non-starter

By Julius (Jay) Wachtel. On January 31 a woman and her 19-year old son came to the Detroit apartment where Kade'jah Davis, 12, lived with her mother. Moments later Kade'jah, an honor student, was dead, [struck by a bullet](#) that tore through the front door. Police later arrested the youth for first-degree murder and his mother as an accessory. It seems that the pair and Kade'jah's mom had quarreled over a missing cell phone.

During the early morning hours of February 20 Delric Waymon Miller IV, age nine months, was asleep in bed when gang members [riddled his Detroit home](#) with thirty-seven rounds from an assault rifle (see above video). A bullet struck Delric in the arm and coursed through his body. He was pronounced dead at the hospital. Police believe that the intended victim was connected with the residence. At this writing the killers remain at large.

On February 26 a car with two adults and two small children [was set upon by a pair of Detroit hoodlums](#) who had committed two robberies and two carjackings during the previous day. For reasons that are unclear the bandits opened fire with an assault rifle, critically wounding a six-year old boy, who at last word is still hanging on. Both robbers were caught. Each was fifteen years old.

Determined to keep her troubled 14-year old son on the straight and narrow, a Detroit mother had forbidden him from running around with toughs. Neither was he to bring over his girlfriends. So on February 27, while his mother slept on the couch, [the angry youth took her fiancée's shotgun](#) and shot his mother dead. He then drove off in the family car. Police soon stopped the vehicle and arrested the youth. His uncle, the victim's brother, said he still loved the boy.

Things have indeed been getting worse in the once-proud "Motor City." There were 344 homicides in 2011, a twelve percent increase from 2010. Forty-nine murders have taken place so far this year, versus 39 during the same period in 2011. [Mayor Dave Bing is outraged.](#) "We cannot just cannot stand idly by and accept this. We have to be enraged at this point." At a hastily-called news conference [police and the Feds pledged](#) to expand a six-month old initiative to process gun-carrying felons through the Federal system, where resources are more plentiful and penalties more stringent. "I made it my

personal resolution in 2012 to reduce homicides in the city of Detroit,” said the U.S. Attorney. “This is not a bunch of talking heads up here. We mean this,” said the local DEA chief. ATF offered \$5,000 for information leading to the arrest of those responsible for the nine-month old boy’s murder. Another \$5,000 was pitched in by Crimestoppers.

This is nothing new. Authorities in Detroit have repeatedly tightened the screws. Police chief Ralph Goodbee remarked that bringing down the hammer requires “a community willing to come up with information,” which by implication Detroit isn’t. “When you’ve got parents afraid of their kids,” said Mayor Bing, “you know you have not done a good job as a parent. You need to start disciplining those young people when they come out of the womb,” which by implication Detroit’s parents aren’t doing. Exactly how these deficiencies will be corrected wasn’t said.

Of course, it’s not just Detroit. So far this year [homicide has claimed seven lives](#) in the gang-ridden Los Angeles neighborhood of Wilmington. Others have been wounded but survived. Those killed include a 16-year old couple, gunned down February 26; a 41-year old man, shot dead January 28; a 21-year old man, gunned down January 22; and a 28-year old woman, stabbed to death January 2. No arrests have been made.

Authorities held a community meeting February 28. It was packed with frightened residents. Police expressed frustration at the lack of leads and implored those with information to come forward. Residents also staged a “take back the streets walk,” which will be expanded to a weekly event.

More shots rang out that evening, and another innocent Wilmingtonian fell wounded.

One would expect such troubles in Detroit and L.A. But Seattle? On February 27 [Seattle officials held a community meeting](#) to discuss a troubling rise in murders to nine this year, six more than at the same point in 2011. While victims are comparatively few – at 600,000 Seattle’s population is two-thirds that of Detroit and six times Wilmington’s – Mayor Mike McGinn nonetheless declared a “public safety emergency.” Deputy police chief Nick Metz promised increased attention to crime hotspots. “We are going to be constitutional in our policing, but we are going to be aggressive.” When pressed for a more comprehensive plan the mayor pointed to existing programs for troubled and underprivileged youths.

Gun violence isn't just a problem in the big cities. On February 27, in the archetypical rural American community of [Chardon, Ohio](#), a 17-year old student [opened fire inside a high school cafeteria](#), killing three students and seriously wounding two (one remains paralyzed.) An intended victim who escaped with a grazed ear said that the shooter, who attended an alternative school for troubled teens, [had "gone Goth" after middle school](#).

Prosecutors have apparently concluded that the shooter is mentally ill. His weapon, a Ruger .22 caliber pistol, [had been legally purchased by an uncle](#) and was reportedly left in a family barn.

What's to be done? There seem to be no shortage of recommendations. Toughen up law enforcement. Severely punish criminals. Encourage citizens to cooperate with the authorities. Provide better social and mental health services. Get parents to do their jobs. Police have responded with a hodgepodge of strategies (for a review see "[Forty Years After Kansas City](#).") Some are directed at places, others at bad people, and others at bad people with guns. There's even a Federal agency, ATF, which is charged with interdicting the illegal flow of firearms.

Yet gun violence persists. That's to be expected. [According to ATF](#), more than five and one-half million firearms were manufactured in the U.S. in 2010. About the same number were produced in 2009. And while firearms sales seem stronger than ever, with [background checks hitting an all-time high](#) of 16.4 million in 2011, gun regulations grow weaker. Loopholes such as unrestricted gun transfers between private persons and at gun shows and no limits on purchase quantity assure massive gun flows even into states with restrictive regulations.

We've written extensively about these issues. (For example, see "[Where Do They Come From?](#)") Here we'll merely point out the obvious: that by virtue of their ubiquity, it's become impossible to keep guns from criminals and youth, let alone from otherwise good people who might misuse them. One could mount well-meaning campaigns from here to eternity, and in the end it will still be the same. Unless the never-ending flow of firearms is miraculously stemmed, or regulations are so tightened that gun possession and transfer are treated at least as seriously as driver licensing and vehicle registration, society doesn't stand a chance against gun violence.

Not one little bit.

Posted 4/4/21

TWO WEEKS, FOUR MASSACRES

*A troubled Colorado man buys a “pistol.”
Six days later ten innocents lie dead.*



For Police Issues by Julius (Jay) Wachtel. “[No family should ever have to go through this again in the United States.](#)” Imagine waiting with your adult son and two granddaughters in a Covid vaccination line when a shooter in a tactical vest bursts in and unleashes a fusillade, gunning down a patron only steps away. By the time that 21-year old gunman Ahmad Al Aliwi Alissa surrendered, [ten lay dead](#) in and around a Boulder, Colorado supermarket. Among them was police officer Eric Talley. A father of seven, the fifty-one year old officer [was first to arrive on scene](#), and as he burst in to save lives he suffered a gunshot wound to the head.

And no, that’s not too much information. Officers and ordinary citizens are often imperiled by [inordinately lethal projectiles](#) discharged by weapons thoughtlessly marketed for civilian consumption. According to police, Alissa had been armed with two weapons: a 9mm. handgun he apparently didn’t fire and the Ruger AR-556 “pistol” (see image above) [he discharged during the assault](#). Purposely configured by its manufacturer to skirt bans on assault weapons and such, the AR-556 is essentially a short-barreled AR-15 [with a brace instead of a stock](#). Chambering the same powerful 5.56/.223 cartridges as the weapon it mimics, it fires a bullet whose mass and extreme velocity enables it to penetrate walls and doors as if they didn’t exist. [Ditto the protective vests](#) typically worn by cops on patrol. Here’s an outtake from our [2019 op-ed](#) in the *Washington Post*:

California, six other states and the District “ban” assault weapons. But these laws skirt around caliber. Instead, they focus on a weapon’s physical attributes. For example, California requires that semiautomatic firearms with external baubles such as handgrips have non-detachable magazines and limits ammunition capacity to 10 rounds.

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As we argued, those characteristics aren't the real reason why assault-style weapons are so dangerous. That's fundamentally a matter of ballistics. High-energy, high-velocity .223-, 5.56- and 7.62-caliber projectiles have unbelievable penetrating power. And should these bullets strike flesh, they produce massive wound cavities, pulverizing blood vessels and destroying nearby organs. Rifles can deliver the mayhem from a distance. That's what happened in 2017 [when an ostensibly law-abiding gambler](#) opened fire with AR-15-type rifles from his Las Vegas hotel room, *killing 58 and wounding more than four-hundred.*

We're not just concerned about rifles. The muzzle energy of ammunition fired by today's 9mm. pistols can be twice or more that of the .38's and .380's that were popular when your writer carried a badge. While ordinary police vests are able to defeat most 9mm. rounds, should they strike an unprotected area their wounding capacity makes their old-fashioned counterparts seem like toys.

Alissa's brother [worried that his sibling was mentally ill](#). He complained about being followed and ranted online that his phone had been hacked. Alissa frequently displayed an aggressive side. His high school wrestling career ended the day he lost a match. Exploding in fury, [he threatened to kill his teammates](#) and stormed out. His only known criminal conviction stemmed from a classroom incident in which he "cold-cocked" a student who had supposedly "made fun of him and called him racial names." Alissa was convicted; he drew community service and a year's probation.

Unfortunately, that was only a misdemeanor. As in [Federal law](#), prohibitions on gun purchase and possession in Colorado only extend to those [convicted of felonies and misdemeanor crimes of domestic violence](#). Bottom line: Alissa was legally entitled to buy that so-called "pistol." And just like Georgia, where [mass killer Long](#) resided, Colorado [doesn't impose a waiting period](#). So once Alissa cleared the background check he was free to take his treasure with. And promptly did.

In Part I we mentioned that Georgia [got an "F" from Giffords](#). In contrast, [Colorado was awarded a "C+"](#). The Mountain State does offer a few more safeguards. While Georgia relies solely on the FBI background check, Colorado also runs a State check. Colorado police and family members [can also petition courts to disarm potentially dangerous gun owners](#). Alissa, though, wasn't a felon. Neither was he ever formally accused of presenting an armed threat. And as far as that AR-556 goes, Colorado law [doesn't address assault weapons](#).

Admittedly, it would take a highly restrictive statute to ban the AR-556. Even California, whose gun law strength is rated by Giffords as [number one in the U.S.](#), allows versions of the AR-556 with longer barrels and fixed magazines (click [here](#) for an

example.) But [the 2018 massacre at Florida's Parkland High School](#) led the City of Boulder [to virtually ban such weapons](#) altogether. In a bizarre coincidence, [that law was nullified](#) this March 12 by a Boulder County judge who agreed with pro-gun advocates that when it comes to guns, state laws rule. In any event, Alissa purchased the AR-556 [at a store in Arvada](#), the Denver suburb where he and his parents reside.

As we carped in [our op-ed](#) and in “[Going Ballistic](#),” <GC19 Going Ballistic> firearms lethality is, first and foremost, about ballistics. And those of the AR-556 are truly formidable. Yet not even California, which Giffords [ranks #1 in law strength](#), pays any attention to this pressing issue. And while the Golden State has enacted much of what Giffords calls for (its full wish list is [here](#)), California citizens are still getting gunned down. On March 31st., just as we were trying to put the wraps to this essay, a middle-aged Southern California man burst into a local shop with whom he had a “business and personal relationship” and opened fire with a 9mm. pistol, [killing four and critically injuring one](#). Among the dead was a nine-year old boy. His killer, Aminadab Gaxiola Gonzalez, 44 had locked the gates of the complex when he went in to carry out the massacre. He was seriously wounded by police.



Unlike Georgia's Robert Long or Colorado's Ahmad Al Aliwi Alissa, Gonzalez had a criminal record. In 2015 [he was charged by Orange County, Calif. authorities](#) with multiple counts including cruelty to a child. He ultimately pled guilty to misdemeanor battery and served one day in jail. Our court record search confirmed that two criminal cases were filed against Gonzalez within a two-day span in April 2015: one was an “infraction,” the other a misdemeanor. According to authorities, his conviction for the latter was expunged in 2017 after he successfully completed probation. Alas, even though California doesn't prohibit persons with expunged records from having a gun. So by all appearances, Mr. Gonzalez was free to gunsling to his heart's delight.

Where does this leave us peace-loving folks? Would we be safer if background checks were required for private party transfers? If waiting periods were the rule? If cops and family members could petition for gun seizures? If rifles couldn't have removable magazines? If there were strict limits on ammunition capacity? If manufacturers couldn't use nonsensical tweaks to magically transform assault rifles into handguns? Gun-control advocates say yes, absolutely. Stronger gun laws, they're convinced, reduce gun violence. And they insist that the data bears them out.

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Is that true? We'll have a look at the numbers next time in, alas, Part III.

Posted 3/25/12

WALKING WHILE BLACK (PART II)

*An implausible self-defense claim, and city officials
who try to justify the unjustifiable*

By Julius (Jay) Wachtel. Click [here](#) and listen closely. That's George Zimmerman, two minutes and twenty-two seconds into his call to Sanford police. Your blogger recorded this fragment from the [911 tape](#), which is posted in its entirety on a TV station website. Now click [here](#) for a segment that your blogger processed with [Audacity's](#) standard noise-reduction algorithm. According to news reports (see, for example, the above video) you're hearing someone, allegedly Zimmerman, utter the odious slur "fuckin' coons," a purported reference to the ethnicity of the 17-year old youth whom the community watch captain would shoot dead moments later.

In our [initial post](#) we mentioned that after five hours of questioning Sanford police concluded that there wasn't probable cause to arrest Zimmerman and let him go. Chief Lee said that the shooting, while regrettable, [was likely in self-defense](#). "All the physical evidence and testimony we have independent of what Mr. Zimmerman provides corroborates this claim to self defense."

Chief Lee had the 911 tape. The slur is very indistinct and likely escaped notice. But there is no disputing what the dispatcher told Zimmerman a moment later (click [here](#) for a complete transcript):

Dispatcher: He's running? Which way is he running?

Zimmerman: Down towards the other entrance to the neighborhood.

Dispatcher: OK. Which entrance is that that he's heading towards?

Zimmerman: The back entrance...[mutters] "fucking coons" (?)...[labored breathing as though running]

Dispatcher: Are you following him?

Zimmerman: Yeah...

Dispatcher: Ok, we don't need you to do that. OK. Alright sir, what is your name?

Zimmerman: George...He ran.

Listen to the [tape](#). Pay attention to the dispatcher's tone. He's clearly admonishing the caller *not* to chase. [Somehow Chief Lee missed that](#): "When dispatchers told him not to do anything, it was just a recommendation."

Enacted in 2005, [Florida's "stand your ground" law](#) eliminates the requirement that citizens try to retreat in the face of real or threatened violence. Here's [a prosecutor's prophetic lament](#) about the ill-advised statute from nearly two years ago: "Before this law, I kind of had an obligation to avoid going to a gunfight, to avoid deadly force. Before this law, I kind of had an obligation to call the police. Now, I can go to a gunfight and stand my ground."

No doubt, the law makes it easier to prevail with a claim of self-defense. In the present case, though, the power imbalance couldn't be more extreme, and in the direction opposite of that envisioned by the statute. Imagine being stalked by a hulking, armed idiot, eleven years older and a good fifty or more pounds heavier. To excuse the shooting Chief Lee had to transform the victim, Trayvon Martin, [into the assailant](#): "If someone asks you, 'Hey do you live here?' is it OK for you to jump on them and beat the crap out of somebody?"

"Beat the crap out of" is how the Chief spun it. Yes, Zimmerman got decked. For all we know he might have already displayed his gun. Even if he hadn't, who had the more legitimate claim to self-defense? An armed vigilante or a scared, skinny youth who wasn't even carrying a stick and was just trying to get home?

Yet even after the city commission voted 3-2 to censure the chief, the city manager persists in characterizing Zimmerman as the aggrieved party. Really, once the case hits the courts – and it's a matter of when, not if – it's certain that both officials will be called as witnesses for the defense. Think not? Consider this excerpt from an [official letter of explanation](#) that the city manager recently [posted on the web](#):

Why was George Zimmerman not arrested the night of the shooting?

When the Sanford Police Department arrived at the scene of the incident, Mr. Zimmerman provided a statement claiming he acted in self defense which at the time was supported by physical evidence and testimony. By Florida Statute, law enforcement was PROHIBITED from making an arrest based on the facts and circumstances they had at the time. Additionally, when any police officer makes an arrest for any reason, the officer MUST swear and affirm that he/she is making the arrest in good faith and with probable cause. If the arrest is done maliciously and in bad faith, the officer and the City may be held liable. [All emphasis from the original.]

Compare that to what [Florida law](#) says about making an arrest after a claim of self-defense:

776.032...(2) A law enforcement agency may use standard procedures for investigating the use of force [in self-defense] but the agency may not arrest the person for using force unless it determines that there is probable cause that the force that was used was unlawful.

The conclusion that police were “PROHIBITED” from making an arrest is the City Manager’s. Sure, it’s nice that Zimmerman gave a statement. Regrettably, though, the only person who could contest its contents is dead. Police are under no obligation to give obviously self-serving comments any weight. Whatever “corroboration” there was seems mostly spin. There were plenty of objective reasons to believe that Zimmerman used excessive force, and officers would have been well within their rights to take him into custody.

It turns out that the chief and city manager spun something else. Both originally portrayed the shooter as a law-abiding fellow. But according to the [Boston Herald](#), Florida cops arrested Zimmerman in 2005 for interfering in an arrest. Zimmerman got pretrial diversion. A month later he was named in a domestic violence petition. Here’s how the City Manager [tried to explain away](#) the discrepancy:

Why was George Zimmerman labeled as “squeaky clean” when in fact he has a prior arrest history? In one of the initial meetings with the father of the victim the investigator related to him the account that Mr. Zimmerman provided of the incident. At that time the investigator said that Mr. Zimmerman portrayed himself to be “squeaky clean”. We are aware of the background information regarding both individuals involved in this event. We believe Mr. Martin may have misconstrued this information.

Zimmerman has also been accused of being overzealous on patrol; one incident involved another black youth.

We will never positively know what happened on that Sunday evening when a pistol-packing neighborhood-watch captain confronted an unarmed youth against instructions from the 911 dispatcher. We do know the outcome: the captain wound up with a bruised face, while the youth got a bullet in the chest. Whether Zimmerman, an older and much larger man fired from anger or because he reasonably feared serious injury or death seems like something for a jury to decide. Not the city manager or police.

Posted 3/18/12

WALKING WHILE BLACK

A Florida CCW permittee avoids arrest after killing a 17-year old he mistook as a threat

By Julius (Jay) Wachtel. About 7:30 pm Sunday, February 26, Trayvon Martin, 17, a Miami high school junior, [was on foot inside a gated community](#) in Sanford, Florida. It was raining lightly. Trayvon was returning to a residence where his family was watching basketball with candy and a drink that he bought at a convenience store.

George Zimmerman, the leader of a recently formed community watch group, spotted Trayvon from his SUV. A 28-year old criminal justice student at Seminole State College, Zimmerman had a CCW license and carried a 9mm. pistol in his waistband. Thinking Trayvon suspicious, Zimmerman telephoned police and [told the dispatcher](#) that a black youth in a hoodie was walking slow and peering in windows. "There's a real suspicious guy. This guy looks like he's up to no good, on drugs on something." It was his 46th. similar call in fourteen months. Zimmerman was told that an officer would be sent, and [when he offered to follow the youth](#) the operator said "we don't need you to do that."

Several 911 callers soon alerted police about an altercation in the same area. When officers arrived they found Trayvon on the ground, dead or dying of a bullet wound to the chest. Zimmerman stood nearby. He told police that he had shot the youth in self-defense. (Click [here](#) to listen to Zimmerman's call and the 911 tapes.)

Trayvon had nothing on his person other than \$22 cash, a bag of Skittles and an Arizona iced tea.

Police handcuffed Zimmerman and took him to the station. [They released him several hours later without charges.](#) "Until we can establish probable cause to dispute [the claim of self-defense] we don't have the grounds to arrest him," said police chief Bill Lee. Indeed, [the chief strongly suggested](#) that the evidence favored self-defense. "Mr. Zimmerman's claim is that the confrontation was initiated by Trayvon...All the physical evidence and testimony we have independent of what Mr. Zimmerman provides corroborates this claim of self defense....Zimmerman had injuries consistent with his story..."

Exactly what "all the physical evidence and testimony" comprises we can't say. Much of what the chief alluded to apparently stemmed from Zimmerman's physical condition

when officers arrived. Zimmerman had a bloody nose and a wound on the back of his head. His shirt was damp and had grass stains. Taken as a whole, these characteristics appear consistent with being punched in the face and falling to the ground.

It's unknown whether Trayvon had injuries other than the bullet wound.

Citizens have come forward with bits and pieces of information, but so far no one claims to have witnessed the entire incident. Residents overheard someone screaming for help in a high-pitched voice, but whether it was Trayvon or Zimmerman isn't clear. Zimmerman reportedly told police that he called for assistance but no one came.

Chief Lee said that Zimmerman established the community watch group two months ago in response to a rash of burglaries. Of course, given the tragic events, the chief's endorsement of the group was qualified. "We encourage residents to report any suspicious activity, to not to put it in their own hands." Still, [he refused to say that Zimmerman was wrong](#) to intervene. "When dispatchers told him not to do anything, it was just a recommendation."

Florida law [doesn't require that persons retreat](#) before using force in self-defense:

776.012 Use of force in defense of person. – A person is justified in using force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the other's imminent use of unlawful force. However, a person is justified in the use of deadly force and does not have a duty to retreat if...he or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony....

Sanford police have turned the case over to prosecutors, and what they will do is anyone's guess. Although the chief's comments seem favorable to Zimmerman, we expect that he will eventually be charged. It seems excessive to shoot someone for being decked, and certainly not under these circumstances. After all, the youth had no idea who the strange man was or what he really intended. It's not surprising that Florida's gun-licensing authority, which [sets out the circumstances](#) under which citizens can use firearms in self-defense, anticipated just that situation when it warned permit holders not to act like vigilantes:

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The law permits you to carry a concealed weapon for self-defense. Carrying a concealed weapon does not make you a free-lance policeman or a “good samaritan.”

As one might expect, not arresting Zimmerman incensed Trayvon’s family and friends. They question whether a shooter would have received the same kid-gloves treatment from police had the victim been white. Their concern – that Trayvon’s race was the deciding factor in his death, if not in his treatment by police – isn’t without foundation. Frank Taafe, a local resident, told a reporter that black youth have been a problem: “Young black males have been seen in burglaries here, they’ve been seen in drug dealings here, and Sanford police is well aware of everything, and they’ve been called out here on numerous occasions. And I believe it was just the perfect storm....”

Now let’s imagine that Florida wasn’t a “shall issue” state, where [CCW permits must be granted](#) to nearly every adult who wants one (including all the angry ones Mr. Taafe mentions.) If so, Zimmerman wouldn’t have had a gun while on “patrol.” Lacking his safety blanket, he might have been more inclined to let a real cop check things out. Once one did and found nothing untoward, they could have all watched the rest of the game together. Trayvon would be alive, his family wouldn’t be devastated, and Zimmerman could continue pursuing his studies, so that maybe he could be a real cop someday.

Just imagine.

Posted 5/31/09

WHEN A PHARMACIST KILLS

***States that encourage citizens to use lethal force
shouldn't be surprised when they stretch the limits***

There's no disputing these facts. On May 19 three youths pulled up to an Oklahoma City drug store. As the driver waited in the car the others donned masks and stormed inside. One waived a gun. Three employees were present. Two fled out the back while the third, pharmacist Jerome Ersland, 57, took cover. Pulling a pistol from his pocket he fired, striking the unarmed robber in the head. The companion fled. Ersland gave chase but soon gave up and returned to the store. Removing another gun from a drawer, he walked over to where the wounded youth, Antwun Parker, 16, lay and shot him five times point-blank in the stomach.

It was these rounds that proved the druggist's undoing. "Here's the ironic part," said D.A. David Prater, explaining why he charged Ersland with first-degree murder. "If the first shot had been fatal, we wouldn't be here."

Concerns about violent crime and outrage (fed by the NRA) about citizens who are sued and even prosecuted for shooting criminals have led dozens of States to enact so-called "Castle" and "stand your ground" laws. While these vary, most include three key provisions:

- Citizens may use deadly force to repel forcible entry or to prevent an assault or other personal crime against themselves or another person (this is the "castle" component)
- Retreat is not required even if possible (this is the "stand your ground" component)
- Rules apply to any place of residence or business (some extend to vehicles and the outdoors)

The newest castle law, in Montana, was signed by Governor Brian Schweitzer (D) earlier this month. In addition to the usual provisions it's got a few goodies for the pro-gun crowd. Anyone who can legally possess guns can carry them openly. For the more bashful there are mandatory-issue CCW permits that don't require any special need. What's more, a companion measure declares that all guns and gun accessories,

including silencers, that are made in Montana and stay in Montana are exempt from Federal regulation. Take that, ATF!

Well, back to the “OK” State. Its long-standing [castle law](#) now applies everywhere, including the great outdoors. Even better, should a law-abiding person be in a structure, tent or a vehicle when accosted by an intruder, their use of force is presumed reasonable unless there is proof beyond a reasonable doubt to the contrary.

If the D.A. really intends to prosecute the pharmacist he faces a major challenge. Jurors will have to stand in the defendant’s shoes, absorb all that took place, then find unanimously and to a near-certainty that what he did was beyond the pale. Now, anyone who’s even vaguely familiar with policing knows that trained and experienced officers often misperceive threats when under stress, occasionally with tragic results. If that’s so, what can one realistically expect of an ordinary citizen?

That’s exactly what Ersland and his lawyer (and yes, maybe the prosecutor) are counting on. An older man who’s hobbling around after surgery gets robbed at gunpoint -- and fights back! If the pharmacist sticks to the story that the youth was trying to get up it may be impossible to get unanimous agreement that his actions, however shocking, are deserving of a conviction for murder.

On November 14, 2007, Texas retiree [Joe Horn](#), 61, noticed two men break into a neighbor’s home. He dialed 911 and was told that officers were on the way. Instead of remaining in his home, as the dispatcher instructed, Horn got his shotgun and confronted the suspects as they left. When they failed to heed his command to stop he shot them dead. After a great deal of controversy a [grand jury](#) declined to indict. To his credit, Horn expressed remorse. “I would never advocate anyone doing what I did,” he said. “We are not geared for that.”

No, we’re not. And it’s impossible to recall a bullet.

As for Oklahoma, the story is turning curioser and curioser. Not only did the D.A. agree to the druggist’s [release on bail](#), an unusual privilege for someone charged with first-degree murder, but he vigorously *contested* the judge’s order barring the defendant’s access to firearms. Whatever happened, the prosecutor argued, Ersland remains legally entitled to have a gun for defensive purposes. Why, he wouldn’t even be in court had the robbery not occurred!

“Then why did you charge him, Mr. Prater?” the exasperated judge asked.

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Technically, the prosecutor may be right. Oklahoma's gun laws, which score two points out of 100 in the [Brady Campaign's gun-control scale](#), are extremely permissive ([Montana](#) earns a whopping eight points; [Texas](#), nine.) When States nostalgically revert to the hang-'em high rules of the wild West, letting citizens carry guns at will and leaving it to them to figure out when to squeeze the trigger, it's no surprise they occasionally yield what seems like an execution. And if the dead person is demonstrably a bad guy, where's the harm? After all, there's always enough slack in the system (wink, wink) to assure that the consequences to the good guy, if any, are minor.

You think *you're* confused?

Posted 1/18/09

WHERE DO THEY COME FROM?

***Most guns used in crime aren't stolen;
neither did they fall from the sky***

Of the many distortions propounded by the gun lobby perhaps none is more insidious than the fiction that most firearms seized by police are stolen. Although firm data is lacking, studies suggest that no more than twenty-five percent of recovered guns (and possibly far fewer) find their way to the street through theft and burglary. Sure, some gun thefts go unreported. On the other hand, many reported gun thefts never really took place. Gun buyers to whom recovered guns are traced frequently cry "stolen" to cover up the fact that they really bought the weapon for someone else. Corrupt dealers who sell guns out the back door often do the same.

In October 2002 [Beltway snipers](#) John Muhammad and Lee Malvo terrorized the nation's capital, killing ten innocent citizens and wounding three. Their weapon, a Bushmaster rifle (an AR-15 knock-off) was traced to [Bull's Eye](#), a Tacoma gun store and indoor range where Muhammad practiced his shooting skills. Problem is, Bull's Eye had [no record](#) of ever selling this gun or more than two-hundred others also missing from inventory. How was the dilemma resolved? Its owner, Brian Bogelt, declared the guns stolen.

ATF ultimately revoked Bogelt's Federal Firearms license. He and Bushmaster settled a [negligence suit](#) filed by relatives of the shooters' victims; Bogelt, for \$2 million and Bushmaster for \$500,000. Of course, Bogelt can't be considered a corrupt dealer as he was never charged with a crime. As far as the rifle and other guns go, they were supposedly shoplifted while he wasn't looking.

In a [study](#) of gun trafficking investigations conducted between 1996-98 ATF concluded that corrupt dealers were by far the largest source of trafficked guns. That was old news to agents in Los Angeles, where fifteen of 28 prosecuted gun trafficking cases between 1992-95 involved crooked dealers who diverted from ninety to three-thousand guns each. (In a later case, corrupt dealers in Cypress and Lake Forest, California were prosecuted for jointly selling as many as ten-thousand guns out the back door.)

Considering the damage that a bad dealer can cause one would think that ATF strictly supervises licensees. One would be wrong. Most of the agency's energy is expended going after felons with guns and, to a lesser extent, straw buyers, these being far more politically correct targets than "honest businessmen."

When the crack epidemic of the seventies sent violence skyrocketing New York and Chicago banned handguns. While no community in the West went that far, California began tightening the screws on the gun marketplace. Its laws, now considered the toughest in the nation, prohibit gun transfers between private persons, limit handgun purchases to one per month, impose a ten-day waiting period on all gun deliveries and require that handgun buyers pass a safety test.

Sad to say, other States lag far behind. A majority [don't regulate guns](#) at all. According to [ATF](#) nearly half (44 percent) of trafficked guns travel down one of several well-worn interstate corridors. It's not a pretty picture. "Weak law" States such as Georgia and Florida (neither has a waiting period, testing requirements or limits on the number of guns one can buy) have for decades supplied the crime-ridden inner cities of the Northeast, with Texas, Arizona and Nevada providing a comparable service for the gangsters of L.A.

Accumulating quantities of desirable new guns through theft is difficult and risky. There's really no need. All that's necessary is to have a [straw purchaser](#) visit a gun store, display an in-State driver license and plunk down their money. Once the Insta-Check comes through they can leave with a carload of guns in minutes. Incidentally, that's exactly how assault rifles purchased in Texas regularly wind up in the hands of [Mexican drug cartels](#).

Shouldn't the mere fact that a private person wants to buy a dozen guns raise suspicion? Alas, as long as dealers do no more than wink and nod, they're free to aid and abet straw buyers at will. No U.S. Attorney will prosecute a dealer and no ATF Regional Counsel will go after their license simply because they handed over a stack of guns to a stranger. Bending over backwards to let the gun industry maximize its profits has always been the American way. Your humble blogger will never forget the ATF memorandum sent during the height of Vice President Al Gore's reinventing government campaign directing that field offices officially refer to corrupt dealers as "conflicted clients."

How can we remove dealers from the trafficking equation?

Discourage straw purchase. Expand one-gun-a-month throughout the U.S., and not just for handguns. Presently only three States -- California, Maryland and Virginia -- have enacted that limit. [New Jersey](#), which is trying to become the fourth, has met concerted resistance from the gun lobby. Until all States are on board traffickers will continue taking advantage of regulatory disparities to buy guns wherever doing so is easy.

Reform investigative practices. Instead of looking on straw buyers and traffickers as the ultimate target, investigators should use them to go after the real source of the misery: corrupt dealers. As the writer and his former colleagues know, sending informers and undercover agents into gun stores to make purchases and elicit incriminating statements can work wonders. Quite frequently this approach has revealed other serious misconduct. In one case, which led to the felony conviction of a retailer in Carson (Calif.), undercover agents investigating straw buying unearthed a machine gun conspiracy.

Reform regulatory practices. Thanks to [Bernie Madoff](#) and his Wall Street friends regulation is no longer a dirty word. Political change has created a window of opportunity to enhance oversight of the firearms industry. To prevent gun diversions and discourage straw sales ATF should perform intensive, quality audits of dealer records. Corrupt dealers have created pools of “clean” guns by simply not recording them when they come in. *To prevent diversions inspectors should not take dealer records at face value but compare them with distributor invoices.* What goes out must also be audited. Knowing what we do about gun trafficking, there is no place for superficial inspections that only provide an illusion of control.

“Voluntary compliance” has been the touchstone of American regulatory practice, and not only in gun enforcement. But as every parent knows, absent a credible threat of punishment, promoting self-control is a loser’s game. It’s a lesson that America’s gun enforcers should finally heed.

Posted 3/23/08

WHO'S PAUL D. CLEMENT?

If you correctly guessed “[Solicitor General of the United States](#)” it’s probably because you’ve read about [District of Columbia v. Heller](#), the Supreme Court case that will conclusively decide whether the [Second Amendment](#) really *does* guarantee an individual right to possess firearms.

As they say, the Devil’s in the details. Rejecting arguments that gun rights are tied to militia service and that “arms” then and now meant something inherently different, the D.C. Court of Appeals ruled in [Parker V. District of Columbia](#) that an absolute prohibition on handguns infringes on the Second Amendment. In their decision, the first to find that the amendment had separable meanings, the judges nonetheless emphasized that they only intended to prohibit *bans*, not reasonable *regulation*. Outlawing concealed weapons and gun possession by felons was fine; even gun registration and proficiency testing could pass muster.

Not so fast, says Dick Cheney. Now that the ball’s in the ultimate court, he and his gun-loving pals want more: they’re asking for a comprehensive ruling that not only affirms an individual right to bear arms but requires that all gun laws pass the test of “strict scrutiny”, the same threshold that’s used to resolve First Amendment disputes. According to [knowledgeable observers](#) this would set a bar so high as to make gun control well-nigh impossible.

That puts Clement in a bind. In the present political atmosphere, one might expect the Solicitor General to bend to the all-powerful Veep’s will. Indeed, as the [transcript of oral arguments](#) demonstrates, affirming an individual right to bear arms was literally the first thing that he did. But Clement can’t just be an Oval Office mouthpiece -- his office has a statutory duty to defend the laws that Congress enacts. These happen to include [Gun Control Act of 1968](#), which does everything from regulating gun dealers to prohibiting the possession of machineguns.

Caught between an Administration that suspects his loyalty and a Supreme Court that’s leaning so far right it could wipe out gun regulation altogether, all that Clement can hope for is that the justices follow Chief Justice Roberts’ suggestion to forego imposing all-encompassing legal tests and leave gun laws to sort themselves out on a case by case basis. Naturally, should the concept of an individual right to possess firearms prevail -- and that’s clearly where the Chief

Justice and his right-tilting colleagues are headed -- the Justice Department would face the nightmarish prospect of defending gun laws one by one, ad infinitum. Instead of a sudden demise it would be death by a thousand cuts.

Incidentally, on the day after the Court heard oral arguments, [a middle-aged man](#) upset at his eviction from a Virginia Beach apartment used a MAC 9mm. pistol and an AK-47 type rifle to kill a 32-year old mother of two and an elderly immigrant, wounding three others, one critically, before turning the weapon on himself. For purposes of comparison here are images of the kind of pistol commonly in use in December 1791, when the Second Amendment went into effect, and the legal guns used by the Virginia Beach man two-hundred seventeen years later.



Posted 3/6/25

WHO'S UNDER THE GUN? *THE ATF, THAT'S WHOM*

Going after gun controllers, for the usual reasons



For Police Issues by Julius (Jay) Wachtel. As bad as things may seem for the FBI (see its own “[Under the Gun](#)” post,) the highly-regarded law enforcement agency’s prospects have definitely *not* fallen to ATF’s level. While no Federal legislator proposes to do away with the “Feebs” altogether, thirty-three Representatives recently signed on to [House Bill 221](#), the “Abolish the ATF Act.” Introduced by [Rep. Eric Burlison \(R-MO\)](#) on January 7th., its full text is presently comprised of a single, unambiguous sentence: “The Bureau of Alcohol, Tobacco, Firearms and Explosives is hereby abolished.” Natch, in our ideologically-split land, it’s no surprise that Rep. Burlison and each of his co-conspirators (oops, we meant co-signers) are “Reds.”



But if ATF can’t simply be booted out, [Rep. Tracey Mann \(R-KS\)](#) has proposed a measure that would in effect achieve the same purpose. Modeled after lawsuits filed by the Gun Owners of America (click [here](#) and [here](#),) [House Bill 624](#), the RIFLE Act (“Reining In Federal Licensing Enforcement”) is a re-play of [a measure](#) that Rep. Mann introduced during the last term (graphic on the left.) Zeroing in on that noxious, “zero-tolerance” regulatory approach over firearms dealers that was imposed by the recently-toppled “Blue” regime, his proposal narrowly defines “willful” (i.e., purposeful) misconduct, which can strip dealers of their licenses and even lead to prosecution. Multiple instances of flawed record-keeping would normally be treated as a single event. What’s more, even when missteps seem intentional, licensees would usually have to be given an opportunity to mend their ways. And if those nasty Feds still insisted on taking their license, dealers would get elaborate hearings before administrative law

judges – in effect, mini-trials – where the Government would have to prove two things: that a violation was committed “willfully,” and that letting the dealer stay in business “poses an immediate and grave threat to public safety.”

So there!

Twenty-eight House members affixed their John Hancocks as co-signers to Rep. Mann’s bill. Again, all are “Reds.” Many have also introduced their own gun-related measures during the present term. Here’s a look at a few:

1. Repeal the NFA Act ([H.R.335](#)): Rep. Burlison (of “Abolish ATF” fame) also presented a bill to repeal the [National Firearms Act](#), a long-established Federal law that imposes fees and strict conditions on the manufacture, possession and transfer of machineguns and other restricted weapons. [He’s particularly incensed](#) that pistols with mere “stabilizing braces” are being treated as killer short-barreled rifles.

2. ATF Accountability Act of 2025 ([H.R.607](#)): Rep. Dan Crenshaw (R-TX) would institute a 90-day time limit for the Attorney General to rule on challenges to gun regulatory decisions. Equally timely decisions by administrative law judges [are also part of the mix](#).

3. Define silencers as an ordinary gun accessory ([S.364](#), [H.R.850](#), [S.345](#), [H.R.631](#)): Senators Mike Crapo (R-ID) and Mike Lee (R-UT) and Reps. Michael Cloud (R-TX) and August Pflueger (R-TX) believe that [the hearing protection](#) assertedly afforded by silencers warrants their removal from the special fees and registration requirements presently imposed by Federal law.



4. Prohibit States and localities from superseding Federal gun laws ([H.R.373](#)): Rep. Claudia Tenney (R-NY) proposes to prohibit States and cities from outlawing the possession of firearms [that are legal under Federal law](#). Say, [New York State](#), which has supposedly trampled on the Second Amendment by outlawing high-capacity magazines and guns with “military-style” features.

5. Transparency Act ([H.R.613](#)): Rep. Russ Fulcher (R-ID) would impose a 90-day time limit on criminal background checks for gun sales and transfers. And, as well, on the adjudication of appeals filed by would-be buyers who get turned down. If the Government can’t do it within this time-frame, [sales are to be considered approved](#).

6. Eliminate the national firearms registry ([H.R.563](#) and [S.119](#)): Rep. Michael Cloud (R-TX) and Sen. James Risch (R-ID) introduced legislation that authorizes gun makers, distributors and dealers to throw away their sales records when they go out of business. At present they must turn them over to ATF, which uses the documents to create a registry that enables law enforcement agencies to identify the last known purchaser of guns they seize on the street. All sales records in ATF's possession [would also have to be destroyed](#).

7. Merchant category codes ([H.R.1181](#) and [H.R.1224](#)): Reps. Riley Moore (R-WV) and Andrew Ogles (R-TN) propose to do away with codes used by credit card companies that identify merchants [as gun or ammunition dealers](#).

8. State and local insurance requirements ([H.R.943](#)): Rep. Ronny Jackson (R-TX) [would prohibit States and localities](#) from imposing firearms-related taxes or fees or requiring that gun owners carry liability insurance.

“Blues” also want to tinker with gun laws. As one would expect, their preferences run in the opposite, gun and gun dealer-unfriendly direction. Here are some of the measures they've introduced during the present session:

1. Prompt reporting of missing guns ([H.R.1456](#)): Rep. Sean Casten (D-IL) would require that lost or stolen guns “be reported to law enforcement authorities within 48 hours.” He has eighteen co-sponsors.

2. Prohibit persons under 21 from buying highly lethal firearms ([S.597](#)): Sen. Alex Padilla's (D-CA) proposal [would prohibit anyone under 21](#) from buying an assault weapon or high-capacity magazine. He's also got 18 co-sponsors.

3. Improve gun storage to prevent theft ([H.R.1097](#) and [S.468](#)): Rep. Bradley Schneider (D-IL) and Sen. Richard Durbin (D-IL) have introduced companion measures that [require firearms licensees](#) to provide highly secure storage, including alarms and cameras, to safeguard their inventories and records.

4. Authorize private lawsuits against makers or sellers of unserialized “ghost guns” and ghost gun parts ([H.R.544](#)): Rep. Ritchie Torres (D-NY) introduced a bill that would allow persons injured by unserialized guns, and their families, to sue their sellers and makers in Federal court.

5. Study gun trafficking along I-95's “Iron Pipeline” ([H.R.543](#)): Rep. Torres also introduced a bill that directs ATF to report on the nature and source

of guns that are “trafficked” (i.e., illegally redistributed) along the East Coast’s main North-South corridor, and to suggest ways to combat the problem.

6. Handgun Permit to Purchase Act ([H.R.532](#) and [S.123](#)): Rep. Jamie Raskin (D-MD) and Sen Chris Van Hollen (D-MD) feel that Maryland’s handgun licensing law has proven effective in combatting gun crimes and suicides. They propose that the Federal government fund studies and implementations of such measures elsewhere.



7. Re-establish the White House Office of Gun Violence Prevention ([H.R.1307](#) and [S.595](#)): Rep. Maxwell Frost (D-FL) was behind legislation that created this office under Pres. Biden. It supposedly helped individuals and communities get funding and resources to combat gun violence. But the office was promptly shuttered by the new regime. He and Sen. Christopher Murphy (D-CT) want to bring it back. Rep. Frost has 115 co-sponsors; Sen. Murphy has seven. All are “Blues.”

What’s our take? None of the proposals we’ve examined, whether “Red” or “Blue,” focuses on an issue dear to our heart: licensee misconduct. Your writer spent the last few years of his career as an ATF special agent leading a gun trafficking group in Los Angeles. That’s where he discovered that misbehavior by firearms dealers is a major source of the killer guns that wind up on the street. His post-retirement journal article, “[Sources of Crime Guns in Los Angeles, California](#),” examined (among many other things) twenty-eight gun diversion investigations conducted by L.A.-area ATF agents during 1992-1995. These addressed the diversion of 19,145 guns. Seventy-one percent (13,667) had gone through the hands of fifteen licensed dealers who falsified sales records or kept none at all. (For an instance with a particularly tragic outcome, check out “[The Pistol That Killed Officer Heim](#).”)

“[Following the Gun](#),” a landmark 2000 ATF study, confirmed that misconduct by Federal firearms licensees (FFL’s) was indeed a major problem:

Although FFL traffickers were involved in the smallest proportion of ATF trafficking investigations, under 10 percent, FFL traffickers were associated with by far the highest mean number of illegally diverted firearms per investigation, over 350, and the largest total number of illegally diverted firearms, as compared to the other trafficking channels.

Alas, the agency's vigor for pursuing misbehaving licensees has long been in question. In May 2021 *The Trace* and *USA Today* released [a deeply-researched analysis](#) of "nearly 2,000" gun dealer inspections during 2015-2017 that led to a penalty, from a warning letter to a (rare) license revocation. It concluded that even licensees who "repeatedly" broke the rules were usually treated with a light touch, thus allowing them to continue their (highly consequential) predations:



The reports showed some dealers outright flouting the rules, selling weapons to convicted felons and domestic abusers, lying to investigators and fudging records to mask their unlawful conduct. In many cases when the ATF caught dealers breaking the law, the agency issued warnings, sometimes repeatedly, and allowed the stores to operate for months or years. Others are still selling guns to this day.

In June 2021 (only a month after that uncomplimentary assessment) the Biden administration announced a measure to cut down on gun crime. Its "Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety" promised to address gun violence "by taking immediate steps to keep guns out of the wrong hands." (It's been removed from the White House website, so we downloaded it from the *Wayback Machine*. Click [here](#) for the whole thing, and [here](#) for BJA's summary, which so far remains online.)

A month after President Biden issued his plan, ATF announced its now-notorious ["zero-tolerance" policy for gun dealer misconduct](#). Here's an extract:

Absent extraordinary circumstances, an inspection that results in a finding that an FFL has willfully committed any of the following violations shall [emphasis ours] result in a revocation recommendation: (a) The transfer of a firearm to a prohibited person; (b) Failing to conduct a required background check; (c) Falsification of records, such as a firearms transaction form; (d) Failing to respond to an ATF tracing request; (e) Refusing to permit ATF to conduct an inspection in violation of the law.

Problems with gun dealers nonetheless persisted. ATF's [most recent inspections "fact sheet"](#) indicates that inspectors visited the premises of 8,689 firearms licensees in FY 2023. That was about six and one-half percent of the 132,383 licensees who were then in business. Reports of violation were completed for 1,531. "Warning letters" were issued to 667, "warning conferences" were held for 166, and 170 licenses were revoked.

Full stop. As one would expect, ATF's aggressive posture drew major blowback from gun enthusiasts and the firearms industry. Here's an outtake from the NRA's [recent](#)

[parting shot](#) at former ATF Director Steve Dettelbach (he resigned when President Trump came in for round #2):

Perhaps worst of all was [the war on gun stores](#) under Dettelbach's "leadership." In short, an executive order from Biden directed Dettelbach's ATF to make life as difficult as possible for firearms dealers. This was done by implementing a "zero-tolerance policy," which may have punished the "rogue," "dishonest" gun dealers Biden claimed to be after, but also unfairly penalized law-abiding dealers for simple paperwork errors. As a result, the number of federal firearm licensees decreased by more than 1,600 since Biden took office.

In August 2024, ATF [issued a lengthy directive](#) to its inspectors reminding them that "not every repeat violation is per se willful." It also sets out, in mind-numbing detail, the circumstances that must be present to justify a revocation. [According to gun-skeptical The Trace](#), these "adjustments" actually proved minor and only led to a "slight" reduction in revocations.



ATF's failure to scrap its "zero-tolerance" approach got its ultimate comeuppance on February 7, 2025. That's when President Trump issued Executive Order "[Protecting Second Amendment Rights](#)." This Order, which is on the White House website, commands the Attorney General to devise a "plan of action" that would "protect the Second Amendment rights of all Americans." Probes are required in three key areas:

- (i)** All Presidential and agencies' actions from January 2021 through January 2025 that purport to promote safety but may have impinged on the Second Amendment rights of law-abiding citizens;
- (ii)** Rules promulgated by the Department of Justice, including by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, from January 2021 through January 2025 pertaining to firearms and/or Federal firearms licensees;
- (iii)** Agencies' plans, orders, and actions regarding the so-called "enhanced regulatory enforcement policy" pertaining to firearms and/or Federal firearms licensees...

And now, of course, there's newly-confirmed FBI Director Kash Patel. He was given ATF's reins as well. [Portrayed by The Trace](#) as "cozy with the most extreme flank of the gun rights movement," Mr. Patel has reportedly suggested abolishing ATF altogether. One-time Secret Service agent Dan Bongino, a notoriously "Red" podcaster whom Mr. Patel brought in as his deputy, [has expressed deep hostility towards the FBI](#). He also once posted on X that "[the Second Amendment was NOT a suggestion](#)."

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On the positive side, ATF's core mission – combatting violent crime – continues to draw favorable attention, and even from its purported critics. Consider Ed Martin, whom President Trump recently appointed as D.C.'s acting U.S. Attorney. To “make D.C. safe again” he announced a campaign to prosecute gun-toting felons on Federal charges, [and got a dozen extra ATF agents to help](#). In the recent past Mr. Martin openly criticized the Capitol riot cases as needless distractions from the fight against violence, and he seems to be an Administration favorite. So maybe there is hope for ATF.

Now, if we could only be sure that Elon Musk won't try to rescind retired agents' pensions...