

GUN POLICY 101

What Policymakers and the Public Need to Know

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I.

Gun Laws Are Old, Not New

- The modern gun debate:
 - A zero sum battle between two opposing views:
 - Gun rights
 - Gun laws
- Our own history tells a different story
 - Guns and gun ownership as old as the country
 - But so are gun laws
 - In many respects guns were more strictly regulated in the country's first 300 years than in the last 30

II.

Thousands of Early Gun Laws Barred/ Restricted/ Regulated

Native Americans, slaves, indentured servants, vagrants, non-Protestants, those who refused to swear an oath of loyalty to the government, felons, foreigners, minors, numerous recreational restrictions.

Laws regulated firearms' use, storage, and transport; barred dangerous or unusual weapons, regulated the manufacture, inspection, and sale of firearms; gun storage and discharge restrictions; prohibited the firing of firearms in or near towns, after dark, on Sundays, in public places, or near roads; punished firing that wasted gunpowder/shot, or under the influence of alcohol.

III.

The Second Amendment



A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

IV.

Second Amendment Meaning

- The Second Amendment's "right to bear arms" was written and interpreted for over two centuries as applying to citizen gun ownership only in connection with their service in a "well regulated militia"
- 2008, the Supreme Court reinterprets the amendment to protect a personal right of civilians to own a handgun for protection at home (*D.C. v. Heller*)
- The right is limited: most existing gun laws constitutional (1000 court challenges to gun laws since 2008; nearly all have been upheld by the courts)

V. Gun Distribution

- Roughly 300 million guns in U.S.; highest per capita of any nation
- 30% of homes report having at least one; 25% of Americans report personal gun ownership
- Gun ownership gradually declining since 1970s; mostly owned by older white males
- Guns per owner: in 1960s, about 2.5; in 2018, over 8 per owner
- Most gun purchases by existing gun owners

VI.

Gun Harm

- In 2017, 39,773 gun deaths:
 - 23,854 gun suicides
 - 14,542 homicides
 - 1,377 fatal gun accidents
 - 40,100 automobile fatalities
- 80% of all gun deaths from handguns, even though twice as many long guns in the U.S.
- Mass shootings +1% of annual gun deaths
- Though guns durable commodity, most crime guns new: 3 years old or less

VII.

Gun Benefits

- Guns used for self-protection perhaps 100,000 times per year (not 2.5 million)
- Gun ownership now a protected right, subject to reasonable regulations
- State regulations vary widely, e.g. concealed carry laws:

As of 2019:

- 25 states “shall issue”: as long as paperwork properly completed and applicant passes Brady background check, license issued
- 9 states, including New York (plus DC) = “may issue”: states may exercise discretion in granting licenses. Denials need not be based on any violations by applicant
- 16 with no restrictions (Vermont, Alaska, Arizona, Wyoming, Kansas, Maine, West Virginia, Idaho, Miss., Missouri, New Hampshire, Arkansas, North Dakota, South Dakota, Oklahoma, Kentucky). Anyone who owns a gun legally can carry it with them in society (no license). In 1981: 1 state
- States with lax gun laws have higher gun crime rates
- No credible evidence that civilian gun carrying reduces crime

VIII.

Mass Shootings

- FBI defines a mass murder (deaths from any intentional cause, e.g. explosives) as one where at least four people are killed within 24 hour period
- Why 4? This standard is completely arbitrary
- Researchers have adopted thresholds of 2+, 3+, 4+, or “intention of shooter” regardless of casualty count

IX.

Types

1. Family: familial rage
2. Felony: gangs, drugs, profit-driven
3. Public: purposeful shooting in public

**Greatest focus on Mass Public Shootings
(e.g. school shootings)**

X.

Motives

- 48% revenge (e.g. employment or relationship problems)
- 15% ideological/beliefs based (from across the ideological spectrum)
- 37% “autogenic”: self-generated; disconnected from the world (idiosyncratic reasons for actions)
- Shootings not “random”

XI.

Weapons

- 1966-2017 (319 cases):
- 75% handguns
- 24% rifles
- 21% shotguns
- 10% assault rifles (AR's little owned by public until the late 1980s; much more common since 2004)
- 1999-mid-2019, AR's used in about 25% of mass shootings (and in the most deadly shootings in last 10 years) but account for 40% of deaths and 69% of injuries. Since 2017, 12 of 31 mass shootings used AWs

XII.

Warning Signs

- Fascination/obsession with guns; most guns obtained legally
- History of disturbing/abusive behavior; 62% behaved in “abusive, harassing, and oppressive way”; 35% had previous criminal convictions
- History of domestic violence (“toxic masculinity”); 54% of mass shootings included intimate partners/relatives; 86% history of domestic abuse
- History of being bullied/persecuted by others
- Shooters often warn others (friends, social media etc.; called “leakage”) beforehand

XIII.

Perpetrator Outcomes

- 38% commit suicide during or after attack
- 18% killed (suicide by cop?)
- 18% subdued and arrested
- 16% flee, arrested later
- 11% surrender

XIV.

Assault Weapons Regulations?

- The outer edge of the current debate over gun laws centers on whether there should be restrictions on assault weapons
- Military-derived weapons available to civilian market starting in the 1970s that have semi-auto firing capabilities only (military are full-auto, three-round bursts, semi-auto) and can receive large capacity ammo magazines
- First AWB California 1989

- Limited federal assault weapons ban, 1994-2004 (included limiting magazines to 10 rounds); study of effects found modest reduction in crime AW use
- Today 7 states + DC have state AWBs
- Laws restricting semi-auto weapons predate the 1980s by 60 years: at least 7 and up to 10 states, 1927-1934

XV.

Red Flag Laws

- NYS New Red Flag law (Extreme Risk Protection Order):
 - Who can file: police, DA, family/household members, school administrators
 - Judge must find “probable cause”; decide w/in 1 day: temporary order issued
 - Likely to result in “serious harm”
 - Hearing in 3-6 days to decide whether to sustain order
 - Must have “clear and convincing evidence” of likely harm
 - Owner can appeal ruling in court
 - One year order; no criminal charges or penalties
 - Can ask for extension beyond 1 year

- 17 states (+DC) now have such laws. Most beneficial effect: gun suicides
- Maryland: in first 3 months after law enacted, 148 people had guns seized out of 302 requests
- Research in Connecticut and Indiana has found that the enforcement of the laws saved lives — about one fewer suicide death for every 10 to 20 cases of gun removals
- University of California-Davis study: 21 seizures from 2016-18 in California when individuals threatened mass shooting

XVI.

Future Trends

- Gun ownership continue to decline; suggests declining power of gun rights groups
- Already substantial public support for most gun policy proposals, even among gun owners
- Gun safety movement newly invigorated, motivated, financed
- Yet federal courts more sharply conservative and agitating for broader interpretation of gun rights under Second Amendment

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