

HOLLAND PROFESSIONAL CLUB

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Forging a Handgun Control Policy

by John Fulenwider

Introduction:

By way of introduction to this emotional and political dilemma I want to share with you an experience which has galvanized my thinking in this area over the years. Just as we can recall what we were doing on the day President John F. Kennedy was killed, I remember a November evening eleven years after the Kennedy assassination just as distinctly.

On November 15, 1972 at 5:30 pm my secretary and I left our building in the campus like setting at G.T.E.Labs., in Waltham, Massachusetts, crossed the parking lot passing by other cars parked there, reached my car. I unlocked the doors, got in the driver's side, she getting in the passenger side. I started the engine, then got out and started scraping the frost off the windshield. It was a clear, crisp, cold November evening, and the moon was up. Then Bang!, a large report like a firecracker exploding, I continued with my scraping, musing that someone had set off a firecracker. Someone shouted: "They've just shot Bill Cowan!, over there he's lying in the parking lot!" That was a gunshot going off. I walked fast to where he lay, and sure enough there he was face down with the right side of his head open like a burst melon, sopped in a pool of blood, and chunks of grayish colored material spewed about. He had the keys to his car in his right hand, which was partly opened.

That day I'll remember well. I had seen him at work, others had done business with him in the Labs. He was a colleague, a family man; he liked music and performed in a Baroque Music Society.

Police investigations commenced that evening, we at the labs were interrogated, leads were followed up, but to this day that crime remains unsolved. The police did think it was done by a high powered rifle, from about 30 yards. The parking lot was lit, and they believed that the perpetrator hid behind a rocky outcropping in the shadows past the edge of the lot; but no shell casing nor footprints were found.

It was a real killing, and I was shocked; that gunshot sounded again and again in my memory of that event. Until then guns, and the threat of guns were somewhere else remote. It started me thinking about firearms- handguns in particular- as really being tools for killing people. Although the police had said they thought it was a rifle, not a handgun that was used to commit that crime, it turns out from the Uniform Crime Records (FBI) that handguns are by far the most often used weapon for committing homicides.

The handgun is a tool used to kill people with, and it is often used to threaten people with. Only a few people will maintain that it is for sport shooting. Making it harder for the civilian population to buy a handgun by requiring a seven day waiting period during which time background checks can be made will reduce the number of homicides of males in the age group 15 through 29. Most handgun related homicides are committed within 48 hours of the over-the-counter purchase of the weapon.[1]

I am in favor of the passage of the Brady Bill, with its provision for a seven-day waiting period. I think we must get a uniform federal law nation wide to underpin what several states are already doing by requiring a waiting period.

Neither supporters nor opponents of gun-control laws have felt any great need to cite facts. Strong emotions have kept the conflicting parties at each other's throats. This paper will present key facts on handgun production, markets, homicides, the status of our handgun control policy, the Brady Bill, legal interpretations of the Second Amendment, and ends with long term recommendations, and references.

Handgun Production, Ammunition Sales, and Markets

Handguns are a big industry; data from the Bureau of Alcohol, Tobacco, and Firearms lists the production figures for handguns for the years 1975 through 1990 (sixteen years) which give an aggregate of 31.3 million handguns being produced during that period.[2] It has been estimated by B.A.T.F. that there are about 70 million handguns in the U.S. today.

The average, over these sixteen years, is a production per year of 1.96 million and presumably these guns were sold, and not left sitting on the retailers' shelves. At an estimated average price of \$350 each that comes to \$686 million each year.

As examples of handguns in three price ranges there is the 9mm 17-shot magazine semi-automatic Glock 17L for \$768.95; the .357 Magnum 6-shot revolver Smith & Wesson Model 27 at \$440; and the .25 cal 6-shot magazine Saturday Night Special semi-automatic by Lorcin, Riverside, CA for \$79.95. [3]

A review of Sportman's Gun Annual for year 1993 vol.13 n.1, published by Modern Day Periodicals, Inc. identifies 244 magazine clip semi-automatic handguns; 140 revolvers; and only 14 single-shot target handguns. Prices range from a low of \$69.95 (Raven Arms model P-25) to a high of \$3833 (Korth .357 Magnum revolver)

But let's not stop there. Ammunition sales produce another sizeable market. Suppose each of the existing handguns is shot an average of 6 times a month; at 22 cents a round (retail), that's a market volume of \$1.108 billion per year. ($\$0.22 \times 6 \times 12 \times 70$ million)

Like the camera, and shaving razor industries, whose manufacturers' offer cheap versions, and make their yearly revenues on the film, and the razor blades, the handgun manufacturers offer cheap low cost versions, and achieve significant revenues by selling the ammunition.

There are handgun accessories like holsters for concealing the gun under the arm, or at the back at waist level; special handgrips, and ear plugs. The most awesome accessory to date is the laser pointer (they sell for about \$200) which attaches in front of the finger guard of the handgun, and throws a laser straight spot of light at where the bullet will enter the body.[4]

This item is now being used by some law enforcement people. It improves bullet placement, a key factor in what is called "stopping power". Now its availability to anyone through mail-order houses increases the potential for killing with handguns so equipped by several times what it is now without these laser pointers. For example these devices are available from TacStar Industries, Cottonwood, Arizona; C & C Global, Los Angeles, CA; B-Square, Ft. Worth, TX, to name a few.

Imagine the psychological affect on a would be victim if he glanced down and saw that red laser spot on his chest, knowing that the bullet would enter there. Laser pointer attachments to handguns should be restricted for use only by law enforcement agencies, and the military.

From a neutral point of view, if that is possible while we're on this subject, the handgun itself is somewhat of an engineering marvel. Handguns have progressed from the awkward flintlock-powder horn ramrodded wad-ball blunderbuss of the seventeenth century to the cap and ball pistols of the 1850's to today's Ingram MAC-10 machine-pistol.[4]

The MAC-10 is truly an awesome killing tool. It should be banned from the public; it is in the same category as the Uzi, and the Glock 18, both machine-pistols. The MAC-10 is available in either .45 cal, or 9mm (9mm is about .35 inches in diameter) and is known as an open-bolt weapon, permitting full automatic fire only. It fires at 1200 rounds per minute, that's 20 shots a second, not what you'd call a sport hunter's gun.

The design and development of handguns has occupied the minds of some very clever people over the years. There are handgun collectors and hobbyists, just as there are collectors of clocks and timepieces, antique penny-banks or other fascinating mechanisms.

To the mechanically minded one supposes that the handgun with its trigger, seer, spring and hammer represents a solution to the problem of releasing the firing pin with a snap through a pull on the trigger, so that it fires the primer, setting off the powder and launching the projectile.

Handgun hobbyists that I have known, most of them engineers, cast their own bullets, saved their brass, and owned cartridge reloaders. They are meticulously interested in the operation, assembly, and cleanliness of their handguns, handling them with the utmost respect. Incidentally they each owned seven or eight handguns; to me one would have been too many. They would gather periodically at old quarries, or behind railroad embankments and engage in "plinking", shooting at tin cans, stumps, and standard paper targets. Handgun owners with attitudes like these about the care and operation of their handguns, make up a woefully small percentage of the handgun owners in the U.S.

The more mainstream handgun buyer is sold on the idea of self-protection; he or she has a belief that their only salvation against "those people out there" is through ownership of a handgun, which plays right into the gun dealers hands.

Handgun ownership in a neighborhood is escalatory; the more it is suspected that neighbors carry handguns, the stronger the belief however false, that he or she should own and carry a handgun.

The handgun industry has targeted (no pun) the women's sector to bolster sagging sales of handguns which occurred in the mid-80's, and which seems to have recovered. Smith & Wesson offers a model 3913 "Ladysmith" handgun for women, as an example of a marketing ploy in their direction. Their advertisements usually start: "LADIES, here's a revolver designed especially for you...".

Facts on Handgun Homicides

The FBI reporting in Uniform Crime Reports U.S. Government Printing Office 1991-282-076/45217 that in 1990 criminals committed more than 1.8 million acts of homicide, robbery, forcible rape, and serious assault.[5]

More than 28 % of these violent crimes involved firearms.

Firearms were the cause of death in 64 % of the 23,438 homicides, or 14,720 deaths, and handguns were used to commit 11,602 of these deaths.

One student in five goes to school (grade 8 through 12) with a weapon, usually a gun.[6]

Americans are more likely to be victims of gun-related violence than citizens of other nations.[1]

In 1988 Handgun Murders in these countries were as follows:

COUNTRY	MURDERS	Population (millions)	Murders per million
Great Britain	7	55.4	0.13
Sweden	19	8.32	2.23
Switzerland	53	6.37	8.33
Israel	25	3.88	6.45
Australia	13	14.6	0.89
Canada	8	24.3	0.33
United States	8,915	226.5	39.36

Note that in Switzerland each adult male citizen is a member of the militia and owns a firearm.

Ample data confirm that as guns become more available, people are more likely to die during violent crimes—a connection that opponents of gun control have tried to deny. Handgun production (and Sales) correlates with the number of handgun caused homicides. As the number of handgun sales go up the number of handgun homicides goes up; when the sales go down the number of handgun homicides goes down.

Handgun Production Figures (BATF)		Handgun Murders (FBI)	Murders per thousand Handguns Produced/Year
Year	Guns		
1985	1,550,071	8,092	5.22
1986	1,427,627	9,030	6.33
1987	1,658,832	8,413	5.07
1988	1,903,990	8,915	4.68
1989	2,031,425	9,536	4.69
1990	1,818,627	11,602	6.38

The average number of murders per thousand handguns produced per year for the six years shown is 5.40.

(Sources: BATF; Uniform Crime Reports, FBI; JEF's calculation)

This is a key model which comes from the data under the present conditions of handgun control, including the various waiting periods practiced by States for gun ownership (some do/some don't have a waiting period). It shows the connection between handgun production rate and handgun death rate. If the manufacturers step up the handgun production by one thousand handguns, presuming them to be sold, then we can expect on average 5.4 handgun more homicides that year. By reducing production, and sales by one thousand handguns we can expect on average 5.4 fewer handgun homicides.

Twenty-five states have waiting periods ranging from 48-hours to 15 days. Data over less than a year's time from six of these states making background checks during the waiting periods show that over 7,000 handgun sales were prevented because the buyers were disqualified, that is felons, or other.

Those opponents of gun control can cite that motor vehicles are the leading cause of fatal injury, and they are right. However motor vehicles are designed for transportation purposes, not as killing tools. Handguns on the other hand are designed as killing machines, so that their arguments to deflect the handgun control legislation by posing the reduction in motor vehicle production have no basis. We require a written test, and a driving test, plus photo identification before issuing a license to drive.

The issue of gun control hinges on whether the death rate from violence would subside if people were forced to abandon firearms and choose other weapons such as knives. Does the weapon matter? asks Philip J. Cook and Daniel Nagin of Duke University.[7]

Marvin E. Wolfgang, Univ. of Pennsylvania, in an early study of this question assumed that people who commit criminal homicide have a single-minded and unconditional intention to kill. He claims that the choice of weapon does not make much difference. But ten years after Wolfgang's work Franklin E. Zimring, professor of law University of California, Berkeley, found strong evidence that the weapon used is important in determining whether a violent assault will lead to death.

He reviewed more than 16,000 Chicago police records of violent assaults to determine the outcomes of attacks with guns and knives, the two most commonly used weapons in criminal homicide, and found that handguns killed 49.5%, while knives killed 17.5% of the total. This is in line with the national average.

Assaults with guns to all vital body areas-head, neck, shoulders, chest, and abdomen-were many times more likely to kill than attacks to the same locations with knives.

The Chicago data showed a five-to-one difference in death rate, in an assault using a handgun versus a knife, and is rooted in the greater dangerousness of the gun as a weapon, which is called the instrumentality effect.

In 1990 throughout the U.S. about 244,000 gun assisted assaults were committed, and 206,000 knife assisted assaults were committed. Handgun assisted assaults resulted in 11,602 murders, while 3,984 murders were committed with knives. This means an assault with a gun was about 4 times more likely to result in death than an assault with a knife.

Professor Hans Zeisel of the University of Chicago, and others, compared assaults in cities that had different mixes of guns and knives. They found a difference in death rates between the two kinds of assaults. (Scientific American November 1991, pp 48-54) He wrote: "If the level of gun attacks in Houston were reduced from 42 % to New York's level of 24 % , 322 gun attacks would have been knife attacks. At present these 322 gun attacks resulted in 63 fatalities.... If they were knife attacks roughly 12 fatalities would result - a reduction from 20 deaths per 100 attacks to four per 100." '[7] This view more or less corroborates the notion that the death rate from violence would indeed subside if people were forced to substitute knives for handguns.

The percentage of gun assisted crimes is related to the proportion of owners of firearms in that area. In 1969 the Task Force on Firearms demonstrated that if a city ranks high in gun use for one kind of crime, such as aggravated assault, the use of guns tends to be high for other types of crime, such as robbery.

Status of a Handgun Control Policy

Six major laws constitute the framework of our federal handgun control policy. They are:

1. National Firearms Act of 1934
2. Federal Firearms Act of 1938
3. Gun Control Act of 1968
4. Cop-killer Bullet law of 1986
5. McClure-Volkmer bill of 1987
6. Plastic Handgun law of 1988

National Firearms Act of 1934

Major provisions of this law (NFA) are:

1. It levies taxes on the manufacture, sale, and transfer of weapons and accessories specified in the act. Weapons covered include sawed-off shotguns, sawed-off rifles, machine guns (fully-automatic weapons), and silencers.
2. Requires the purchaser to undergo FBI background check
3. Requires the seller to pay a \$200 transfer tax, which is passed on to the buyer
4. Purchaser must have approval of local law enforcement officer

Federal Firearms Act of 1938

Major provisions of this law (FFA) are:

1. It requires annual licenses for manufacturers and importers of firearms, and revolver and pistol ammunition. The fees for these licenses were paid to the Internal Revenue Service.
2. Bans delivery of a firearm to a known criminal.

1968 Gun Control Act

This Gun Control Act (GCA) is our primary gun law, and was passed in the wake of the murders of Dr. Martin Luther King, Jr., and Senator Robert Kennedy. Major provisions of this law are:

1. It established categories of prohibited firearms purchasers and possessors. These categories are convicted felons, fugitives from justice, illegal drug users or addicts, minors, anyone adjudicated mentally defective or having been committed to a mental institution, anyone dishonorably discharged from the military, illegal aliens, and anyone having renounced U.S. citizenship.
2. Licenses and sets standards for gun dealers; sets the licensing fee schedule for manufacturers, importers, and dealers in firearms; sets record keeping standards; requires serial numbers on all guns. Licenses obtained from the Secretary of the Treasury.
3. Prohibits the mail-order sales of all firearms and ammunition.
4. Prohibits the interstate sale of firearms; a handgun purchaser may only buy a gun in the state in which he resides; but long guns may be sold to purchasers from contiguous states, where such sale do not violate either states' laws. Now long guns may be purchased from gun dealers in any state, regardless of purchaser's residence.
5. Sets the minimum ages for firearms purchased through dealers; handgun buyers must be at least 21, and long gun buyers must be at least 18.
6. Prohibits the importation of non-sporting weapons, which include "Saturday Night Special" handguns, some semi-automatic assault rifles (which are the 43 weapons covered in the 1989 Bush Administration ban), and two military shotguns.
7. Sets penalties for carrying and using firearms in crimes of violence or drug trafficking
8. Prohibits importation of weapons covered in the NFA and it extended NFA restrictions to machine gun frames and receivers, and conversion kits (meaning parts to make machine guns).
9. Prohibits importation of foreign-made military surplus firearms.

In most states handguns are sold immediately, "over the counter", to anyone who fills out a form and displays identification. The 1968 Gun Control Act (GCA) prohibits felons, fugitives, drug addicts, and the mentally ill from purchasing or possessing firearms. However law enforcement authorities in most states have no practical mechanism to enforce this law. The GCA requires purchasers who seek firearms from federally licensed dealers to sign a form swearing that they do not fall in the prohibited category. That form is filed away by the gun dealer and never checked. In effect, criminals are expected to obey the "honor system".

Cop-killer bullets law of 1986

Rep. Mario Biaggi, a former police officer, introduced legislation in 1982, at the request of law enforcement groups, that would outlaw armor-piercing handgun ammunition. These bullets were capable of penetrating the bullet proof vests of police officers, and were called "cop-killer" bullets. This bill would have banned the manufacture, importation, and sale of cop killer bullets. The NRA opposed this legislation, and used stalling tactics which were effective until 1984. The Reagan Administration offered a compromise bill which the NRA claimed to support as long as it didn't ban the sale of existing cop-killer bullets. In January of 1985, police groups sent a letter to the President urging him to include the sales provision in any cop-killer bullet bill. The bill signed by President Reagan in August 1986, did contain a ban on sales of these bullets.

McClure/Volkmer Bill of 1987

This bill in its original form would have significantly weakened the 1968 gun Control Act; it is known as the Firearms Owners' Protection Act, and was supported vigorously by the NRA. It would have: allowed mail order gun sales; allowed individuals to buy or sell guns across state lines; ended federal licensing of individuals who make only occasional gun sales (e.g. pawnbrokers); and prohibited surprise inspections of gun dealer's records.

The major provisions of the McClure/Volkmer bill that finally became law are:

1. Mail order gun sales restrictions are maintained.
2. Interstate handgun sales are still prohibited; long guns may be sold interstate from licensed dealers.

3. Federal controls over pawnbrokers and part-time dealers remains intact.
4. BATF agents allowed one surprise inspection annually, and allows review of records for tracing purposes.
5. Allows transportation of handgun from a state where it is legally owned into a state requiring a license to carry a handgun, if the handgun is unloaded, and not readily accessible.
6. Dropped the provision of the mandatory sentencing for using a handgun in a crime! (This should be reinstated).
7. Retained the provision in GCA requiring proof of sporting requirement for importation.
8. Prohibits the importation of "Saturday Night Special" parts.
9. Prohibits the sale and manufacture of New fully automatic civilian machine guns, effectively freezing the number of machine guns in circulation.
8. Prohibits the sale of parts or "conversion kits" used to make semi-automatic firearms fully automatic.
9. Classifies silencer parts and kits as weapons falling under the National Firearms Act. (I would like to see laser pointer kits classified as falling under the NFA also.)

Plastic Handguns law of 1988

A Florida gunmaker announced in 1984, that he had developed the technology to manufacture a nearly all-plastic handgun. This handgun would be virtually undetectable by technologically current screening devices. This type of weapon would provide terrorists with a means of smuggling them into the country, into courthouses, into the U.S. House of Representatives, the Senate, or even the White House. Legislation was introduced to ban the production of undetectable weapons, and was immediately opposed by the NRA as a media made myth. The tide turned against the NRA when then Vice-President Bush held up a tiny gun at a Presidential debate in 1987 before The Gun Owner's of New Hampshire and stated that he would be willing to ban such guns since their size allowed them to evade metal detection devices.

President Reagan signed into law in November 1988 a bill banning the manufacture, importation and sale of undetectable (meaning plastic) handguns.

Status of The Brady Bill

The Brady Bill requires a seven day waiting period from the time a person decides to buy a handgun until he or she may take possession of the handgun. The waiting period will provide law enforcement with the opportunity to conduct background checks on handgun purchasers. It will provide a "cooling off period" for individuals who are acting in the heat of passion, or the depths of depression.

In May 1991 the U.S. House of Representatives voted 239 to 186 to pass the Brady Bill. As passed by the House, it would require a seven-day cooling off period before the purchaser could take possession of a handgun purchased through Federally licensed dealers.

In the Senate the Brady Bill was considered as part of an Omnibus Anti-Crime Bill. Senators that supported the NRA's desire to do away with the waiting period threatened to filibuster the entire crime bill because of the waiting period provision. Senators Dole and Metzenbaum announced a compromise package which would combine the waiting period with an instant background check system, contingent on an accurate national database. This measure passed 67 to 32.

The Senate version differs from the House version in that the background check is mandatory during the waiting period. The waiting period is 5-working days. This time will often translate into seven days because many purchasers will have to wait over the weekend. States will be given federal money to update their criminal history records over the next five years. The Attorney General must certify that 80 per cent of the nation's records are on-line and accurate. At that time the waiting period would phase out and a computer background check would be instated. The waiting period will be reimposed in any state not meeting the 80 per cent standard.

The House has finished its omnibus crime bill. The House and Senate crime bills and the Brady Bill will go to a conference committee where differences in the two versions will be ironed out. The conference report will go back to both bodies for approval. Then the final bill will go to the President for his signature. President Bush has said he will sign the waiting period bill if it is included in a crime bill he finds acceptable. (per HCI fact book)

Second Amendment and its Relationship to Handgun Control Policy

The Amendment reads, "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."

The U.S. Supreme Court has interpreted the Second Amendment on five separate occasions, and nearly forty lower court decisions have addressed the Amendment. All have ruled that the Second Amendment guarantees a state's right to maintain a militia. It does not guarantee an individual the right to own a handgun.

There is nothing in the Second Amendment to the Constitution that mandates an unalienable right like the freedom of speech, freedom of the press, freedom of religion, to own handguns. Therefore states may enact laws prohibiting or restricting ownership without violating the Constitution of the U.S. The Brady Bill would not violate the constitution as the NRA believes.

Long Term Recommendations

Many laws do not significantly diminish the number of guns used in violence, although many advocates of gun control assumed they would. The problem goes deeper than passing laws to reduce the proliferation of handguns. Passage of gun control laws solves the problem in the short term, but our problem is more long term, and deep rooted. Passage of the Brady Bill certainly must take place.

The core of the problem is lack of a good enough education by the have-nots to get and keep a job that will allow them a life. As America has progressed technologically, and moved into the Information Age, the number of low skill jobs has shrunk. This cuts down drastically on any work opportunities for the young black and white males in the inner cities that have either dropped out of school or have just barely gotten through.

They are angry, they don't see any way to make a living legitimately, and fall prey to following other means, creating the inner city gangs, with fighting, crack use and peddling, and killings that we read about. I say we have to take these youngsters aside, and give them an education for the kinds of jobs that are now substituting for the low skill jobs of the past. Perhaps giving them paid apprenticeship positions could be one alternative. There has been talk also of recreating something like the CCC (Civilian Conservation Corps of the mid-thirties) to work on restoring roads, bridges, and on environmental cleanup. The root cause of this unrest leading to most of the handgun homicides must be removed on a broad scale.

A decisive and catastrophic change from people in America owning guns to people not owning guns--by casting them all into a vast melting pot and reducing them to a 70,000 ton heap of slag--is as ridiculous a thought as is the NRA's desire to have machine gun ownership legalized.

Changes in attitude about possessing guns comes about slowly, but it must come about. Allegorically think of a glass of water, put a few drops of milk in it; then without tipping the glass over and pouring out the contaminated water you can again produce a clear glass of water by pouring clean water to the cloudy water in the glass, letting it over flow steadily until at last it is pure again. This process takes a long time and the process has to be continual, and steady. I think you can see the process here with respect to handgun attitudes. If we can educate the core group, so that they can get jobs, gradually they will fall away from the idea that owning a handgun is their only salvation.

Education about handguns being nothing more than killing tools through advertisements, and factual articles of course must be encouraged.

Professor James O'Kane, Criminologist, Drew University[8] has summed it up with this recommendation: that we must stress education focussing on family, community, on becoming caring citizens, and that inculcates those good values normally associated with the GOLDEN RULE. I would go along with this.

Agencies Involved in Helping to Forge a Handgun Control Policy

Handgun Control Inc., 1220 Eye Street, N.W., Room 1100, Washington, D.C. 20005 (202) 898-0792 founded by Dr. Mark Borinsky in 1974. Sarah Brady is now Chair of HCI.

Center to Prevent Handgun Violence, is HCI's educational, research and legal action arm; founded by Pete Shields in 1983.

Coalition to Stop Gun Violence

plus 12 national law enforcement organizations.

References

[1].I have liberally infused factual material throughout this report from the Briefing Booklet provided me by Handgun Control, Inc., received March 20, 1992.

[2].Bureau of Alcohol, Tobacco, and Firearms, on handgun production.

[3].Sportsman's Gun Annual, 1993, vol.13 n.1 pp 64-115

[4].Gun's & Ammo, October 1992, vol.36 n.10 pp 68-74

[5].F.B.I.:Uniform Crime Reports, 1990, and earlier. The UCR for 1991 will be released October 15, 1992, too late for this paper.

[6].T.V. News announcement August 24, 1992 on ABC's "Good Morning America", at 8:30am EST.

[7]. "Firearms, Violence and Public Policy" by Franklin E. Zimring, *Scientific American* November 1991 vol.265 n.5, pp 48-54

[8].MacNeil-Lehrer Report, April 23, 1992, 7:00pm EST.