



Firearms Law and the Second Amendment Regulation, Rights, and Policy

Online Chapters

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|| 12 ||

SOCIAL SCIENCE

*This is online Chapter 12 of the law school casebook *Firearms Law and the Second Amendment: Regulation, Rights, and Policy*, by Nicholas J. Johnson, David B. Kopel, George A. Mocsary, and Michael P. O’Shea. The printed book, consisting of Chapters 1 through 11, is available at the [website of Aspen Publishers](#). The printed book is also available from [Amazon.com](#) and [Barnes & Noble \(bn.com\)](#). The [public website for this casebook, firearmsregulation.org](#), contains the four online chapters (Chapters 12 through 15), plus podcasts on each chapter, resources for student research papers, and more.*

Note to teachers: Chapter 12, like all of the online chapters (and like the printed Chapters 1 through 11), is copyrighted. You may use this online Chapter 12 without charge for a class, and you may have it printed for students without charge — providing that you notify the authors of such use via one of the email addresses provided on the [public website for this textbook](#). Of course, you may choose to use only selected pages, and you may supplement this chapter with materials of your own. However, this chapter may not be electronically altered or modified in any way.

Chapter 12 presents empirical data and studies on firearm use and misuse. Most of the chapter involves criminological issues like gun use in crime, resisting crime, and guns as deterrents to crime. The chapter also covers many facets of the debates about gun control or gun ownership as strategies for reducing crime. In addition to the strictly criminological issues, we present information on suicide and accidents. The chapter is divided into the following sections:

- A. Challenges of Empirical Assessments of Firearms Policy
- B. American Gun Ownership
- C. Defensive Gun Use: Frequency and Results
- D. Firearm Accidents
- E. Firearm Suicide
- F. Firearm Violent Crime
- G. How Do Criminals Obtain Guns?
- H. Race, Gun Crime, and Victimization
- I. Youth Crime
- J. Recent Downward Trend of Violent Crime and Growth of the American Firearms Inventory

- K. Does Gun Ownership Reduce Crime?
- L. Does Gun Control Reduce Crime?
- M. Polling Data about Gun Control and Gun Rights
- Appendix: Firearms and Violent Crime Measures by State

For students writing policy-oriented research papers, this material and the work cited here will be a good resource. In addition to the sections summarized above, the chapter ends with an Appendix that presents a variety of data by state. These data do not show cause and effect. But they do permit interesting, rough comparisons between states that have different forms of gun control.

A. *Challenges of Empirical Assessments of Firearms Policy*

Almost all empirical assessments of social issues involve some data challenges, and this is certainly true of empirical studies of gun policy. A good place to start in appreciating the challenges, and a good source of analysis of the full range of empirical claims affecting the gun debate, is the 2005 metastudy by the National Research Council, *Firearms and Violence: A Critical Review* (2004). This book-length report was developed by the National Academies at the request of a consortium of federal agencies and private foundations, including the Centers for Disease Control and the Joyce Foundation (both of which have taken positions strongly favoring increased gun control).

The federal Centers for Disease Control (CDC) conducted its own metastudy, “[First Reports Evaluating the Effectiveness of Strategies for Preventing Violence: Firearms Laws](#),” published in the CDC’s (memorably named) *Morbidity and Mortality Weekly Report* (Oct. 3, 2003).

Both the National Research Council and CDC studies are agnostic on the effectiveness of existing gun controls. That is, each metastudy concluded that existing data and studies were not sufficient to draw solid conclusions about whether gun control (in its various forms) reduces or increases crime, nor did they permit conclusions about whether gun ownership or gun carrying (in their various forms) reduces or increases crime.

When the American gun control debate became a major national issue in the late 1960s, there was almost no social-science research on the topic. But since the late 1970s, there have been many studies, some of them of very high quality. That the sum total of these studies lead to agnosticism indicates the difficulty of drawing solid conclusions about the effect of public policy interventions aimed at a complicated set of behaviors. In legislatures, it is common for statistics and studies to be bandied about by both sides, but usually for the purpose of reinforcing the intuitions of whichever side is doing the bandying.

A good illustration of the complexity of the field—even in areas where excellent data are available—appears in Section B of this chapter. It begins by asking a simple question: *How many guns are owned by civilians in the United States?* (That is, all guns in the United States excluding those owned by the military but including guns owned by individual police officers and by police departments.)

We have decades' worth of very reliable data from U.S. gun manufacturers about the number of guns made during a particular year. We also have solid data about how many guns per year were legally imported into the United States and exported out. So for any given year we have a good estimate for the net addition to the U.S. gun supply.

Yet fixing the total number of guns is still complex. First, the annual production data only go back so far, and one has to estimate what the gun supply was before that. Then there is the question of the net *subtractions* each year from the gun supply. The number of guns that citizens surrender to the government in occasional “buyback” programs is trivially small. But police gun seizures from criminals are much larger in number. Some municipalities sell seized guns back into the inventory through licensed firearms dealers. But some seized guns are destroyed. There are no comprehensive data about how many guns leave the inventory because of police seizures. (This would be a good topic for a student research paper.)

Also, guns can wear out from use, or from neglect. Replacing a worn-out gun spring is not particularly difficult, but presumably some number of guns become nonfunctional every year, either because of damage or (more often) because the owners do not bother to maintain them or have them repaired. But no one really knows how many guns should be subtracted from the national gun count on this basis.

According to the 1968 Gun Control Act (GCA), any gun made before 1898, and some modern replicas of pre-1898 guns are not considered “firearms.” (A modern replica of an 1873 Colt SAA .45 is a “firearm” because it uses commercially available metallic cartridge ammunition). Likewise, the vast majority of black-powder, muzzleloading guns (described in Chapter 1 of the textbook and in online Chapter 15) are not considered “firearms” covered by the GCA. So manufacturers are not required to compile or report production numbers for these guns.

Also, Americans do not need a federal license to manufacture guns for their personal use. It is unknown how many homemade firearms are produced each year. (Most homemade firearms are probably black-powder guns assembled from kits, so they would not show up in the data in any event). Illegally imported guns are also statistically off the books. So, too, are any thefts of guns from military supplies that end up in the civilian inventory.

Table 12-22 presents an estimate of more than 300 million firearms (not counting muzzleloaders) in civilian hands in the United States — slightly more than one gun per American. Other estimates might place that figure closer to 200 million. No one suggests that the figure is below 150 million, or above 400 million. The difference between 200 million and 300 million is sizable, but it is a relatively precise figure compared to the range of estimates of the number of guns in countries such as Brazil, Yemen, or Mexico.

Another basic question is, *how many individuals or households in America own guns?* Again, there is a wealth of data: The Gallup Poll and the National Opinion Research Center have both been asking this question annually for many years. We present much of the data later in this chapter. Yet there are large year-to-year swings in the answers, which demonstrate some of the empirical limits of opinion polling.

Polling data on gun ownership involves not only the ordinary imprecision of polling, but also the unending problem of the “dark figure.” There are probably a large number of people who own guns but refuse to admit it to a

stranger on the telephone. This was illustrated by an Illinois study of persons who had a state-issued Firearm Owner's Identification Card (FOID Card), which is required in Illinois to buy guns. The pollsters found that a large percentage of people who had a FOID Card nevertheless told a telephone pollster that they did not own any guns. It is possible that most of these people paid fees and filled out official paperwork in order to obtain a permit to own guns, but then changed their minds and did not acquire them. But the more plausible conclusion is that a large percentage of gun owners refuse to disclose themselves to pollsters. *See* David J. Bordua, Alan J. Lizotte, & Gary Kleck, *Patterns of Firearms Ownership, Use and Regulation in Illinois: A Report to the Illinois Law Enforcement Commission* (Springfield, Ill., 1979). *See generally* Gary Kleck, *Measures of Gun Ownership Levels for Macro-Level Crime and Violence Research*, 41 *J. Res. Crime & Delinq.* 3 (2004). It also turns out that who answers the phone can make a big difference in the result. Husbands inform a pollster about a gun in the home at a higher rate than do wives. Gary Kleck, *Targeting Guns: Firearms and Their Control* 67 (1997).

Taking the phenomenon of nondisclosure into account, one would probably not be too far wrong in estimating that about half of American households own guns. In any event, one would not be wrong by an order of magnitude (which is more than you can be sure of in some of the areas covered in this chapter!). Likewise, the different estimates for the number of civilian guns in the United States differ by a bit more than 50 percent — under 200 million, or over 300 million.

In contrast, when we turn to the question, *how many defensive gun uses (DGUs) by private persons (not police) occur each year in the United States*, the rival measures vary enormously, with the low-end estimate separated from the high-end estimate by more than an order of magnitude. The low end is around 100,000 DGUs per year, and the high end is around 3 million. We examine the issue in detail in Section C. While we tend to side with the argument that the true number is around 700,000, the range of uncertainty is still very large.

What about the *number of gun crimes per year*? The standard source is the FBI's Uniform Crime Reports (UCR), compiled from monthly reports by local law enforcement about the total number of crimes per category in their jurisdictions. The UCR by definition does not include incidents that are not reported to the police. Sometimes (but hopefully not often), police departments cheat in order to create the appearance of lower crime in their jurisdictions (e.g., by misreporting a theft as an unexplained loss of property, or a rape as a mere assault).

The UCR is based solely on police reports, not on a final judicial resolution of the case. *See* [UCR General FAQs](#). So what the UCR reports as a criminal homicide may later be determined to be lawful self-defense. Moreover, UCR reporting is not mandatory. Some jurisdictions will submit incomplete information and some might submit none. For example, rape data for 2000 was entirely unavailable from two states. *Id.* One researcher has argued that UCR underreporting distorts research on right-to-carry laws. *See* M.C. Maltz, [Bridging Gaps in Police Crime Data](#), Discussion Paper from the Bureau of Justice Statistics (U.S. Dep't of Justice 1999).

Another source of crime data is the annual National Crime Victimization Survey (NCVS), a joint project of the Department of Justice and the Census Bureau. The NCVS conducts in-depth polls of Americans to ask if they were victims of crime during the last year, and, if so, to elicit certain details. The NCVS has its own methodological advantages and disadvantages. Sometimes NCVS data are congruent with the UCR, and sometimes not. For a rich source of information on the uses and limitations of these and other sources of crime data, see Alex Tabarrok et al., *The Measure of Vice and Sin: A Review of the Uses, Limitations and Implications of Crime Data*, in *Handbook on the Economics of Crime* 53 (Bruce L. Benson & Paul R. Zimmerman eds., 2012), available at <http://mason.gmu.edu/~atabarro/Measure.pdf>.

A particularly controversial source of information is Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) firearms trace data. Local law enforcement agencies may ask ATF to *trace* the origins of a firearm confiscated from criminals or found at a crime scene. The typical trace starts with the manufacturer’s name and a serial number stamped on the gun. A trace of a relatively new gun will quickly reveal the date of manufacture, the identity of the wholesaler and retailer who originally sold the gun, and the dates the gun was transferred to them. Pursuant to the Gun Control Act, manufacturers and wholesalers must keep records on these transactions. These days, almost all such data are computerized and voluntarily made available to ATF at any time, so ATF can conduct a computerized manufacturer to wholesaler to retailer trace in a few seconds.

As detailed in Chapter 8, the GCA also requires retailers to keep paper records. Although many retailers today also keep additional records on their computers, the dealer-owned computer records are not immediately available for ATF to conduct traces. So ATF will contact the retailer personally, and the retailer’s records will show the first lawful buyer of the gun. If the gun was stolen from that first lawful buyer, the trace comes to an end. If the gun was sold to someone else, the trace might extend to the subsequent purchaser.

ATF warns that the fraction of guns selected for tracing is not representative of crime guns in general. Because the likelihood of a successful trace is low for older guns, the trace submissions skew heavily toward newer guns. In 1999, for example, roughly 164,000 firearms were submitted to the National Trace Center and “52 percent were successfully traced to the first retail purchaser.” National Research Council, *supra*, at 39. Forty-eight percent of the trace requests failed for various reasons, with 10 percent failing because the gun was too old. *Id.* In recent years, the ATF has only accepted trace requests for guns of recent vintage. A full assessment of this issue is provided later in this chapter in the excerpt from Gary Kleck and Shun-Yung Kevin Wang, *The Myth of Big-Time Gun Trafficking and the Overinterpretation of Gun Tracing Data*, 56 UCLA L. Rev. 123 (2009).

All of the above problems involve simple questions of counting how many guns or gun crimes there are. When one tries to estimate the effects of particular gun laws, there are two different approaches, broadly speaking. A *cross-sectional* study compares and contrasts different areas that have varying laws, and attempts to discern whether differences in crime rates might be due to the differing gun laws. A *longitudinal* study examines changes in a single area over time — for example, how crime rates changed in a particular state after a certain

gun law was enacted. Many studies are both longitudinal and cross-sectional, examining changes in several jurisdictions over a period of time.

The challenge faced by all such studies is that gun laws are not the only variable that may impact crime rates. For example, New Jersey has more restrictive gun laws than does Louisiana, and also has less crime. But there are many other differences between New Jersey and Louisiana that might be alternative explanations for the differing crime rates—such as poverty rates, police efficacy, unemployment, percentage of the population aged 15 to 25 (the peak years for violent crime perpetration), and so on. Likewise, the simple fact that violent crime fell after a state enacted a “shall issue” handgun carry licensing law (Chapter 1.D) does not prove that the crime reduction was caused by the new law. Perhaps at about the same time that the shall-issue law came into effect, new prisons were opened, which allowed more criminals to be incarcerated longer; or unemployment was falling; or the percentage of young males in the population was declining due to emigration to other states. *Multivariate analysis* uses sophisticated statistical tools to attempt to hold other variables constant, and to isolate the effect of the variable being studied (such as a change in gun laws). This brings the debate to a level of complexity that few people without an advanced degree in a field of statistical analysis can follow. And even those with this expertise have many bitter disagreements among themselves.

We are not counseling pessimism. For all of the above difficulties, the empirical examination of firearms issues is a good deal better-grounded than many other policy debates. Much of the debate involves homicide, a drastic event that draws extensive public attention, giving homicide research a starting point of solid data. In the 1960s and 1970s, when the modern American gun control debate was getting under way, empirical research was thin, and generally of poor quality. But since then, there has been a tremendous amount of fine research. For example, Gary Kleck’s 1991 book *Point Blank: Guns and Violence in America* won the American Society of Criminology’s Hindelang Prize for the best contribution to criminology in the previous three years. Besides presenting Kleck’s original research, the book summarized all the research thus far. One reviewer, a specialist in drunk driving, commented enviously on the amount of data and analysis amassed by gun policy scholars. H. Laurence Ross, *Book Review*, 98 *Am. J. Soc.* 661 (1992).

So as we begin the examination of criminological data, we do not mean to suggest that empirical analysis of gun policy questions is futile. We do mean to caution that many figures and statistical claims may not be nearly as precise as one might hope.

B. American Gun Ownership

Many of the first generation of firearms criminologists thought that more guns in private hands were straightforwardly correlated with more crime. *See, e.g.*, Franklin E. Zimring & Gordon Hawkins, *The Citizen’s Guide to Gun Control* (1987). But in recent years, gun ownership in America has increased to record

levels even as the frequency of crime with guns has declined. The decline in violent crime is covered in more detail in Section J below. In this Section B we detail the growth and distribution of the civilian gun inventory.

Based on a compilation of different sources, it is likely that the U.S. civilian gun inventory is at least 300 million — roughly one gun per person in the United States. *See* Table 12-22.

Survey data about the distribution of firearms is mixed. A 2011 Gallup poll found that 47 percent of American adults have a gun in their home. This is up from 41 percent the year before, and was the highest percentage Gallup has recorded since 1993. It is also consistent with 1980 surveys by Gallup and Harris that showed the number of households owning firearms between 45 and 48 percent. National Research Council, *supra*, at 58.

On the other hand, polling by the National Opinion Research Center (at the University of Chicago) shows a long-term decline in household gun ownership from about half of all households to about a third. One researcher speculates that this may be due to an increase in female-headed households during the same period. *Id.* at 45.

All of the surveys about household gun prevalence show erratic swings from one year to the next, sometimes up and sometimes down. These swings are far too large to be mere sampling error, and they are also so large as to be highly implausible — unless one believes that a significant percentage of the U.S. population gets rid of its guns one year, acquires new guns the next year, then gets rid of its guns a few years later, and buys new ones a couple years after that. *See* Kleck, *supra*, at 67-68. It is fair to say that between a third and a half of American households have firearms. Claims of an exact percentage within that range assume more precision than the data justify.

1. Gun Ownership by State

In 2001 the Behavioral Risk Factor Surveillance System (BRFSS) in North Carolina surveyed 201,881 respondents nationwide, asking them, “Are any firearms now kept in or around your home? Include those kept in a garage, outdoor storage area, car, truck, or other motor vehicle.” Table 12-1 shows the results.

TABLE 12-1
Gun Ownership by State

| | <i>Total Number</i> | <i>Yes</i> | | <i>No</i> | |
|-------------------------|---------------------|--------------------|-------------|--------------------|-------------|
| | | <i>Respondents</i> | <i>%</i> | <i>Respondents</i> | <i>%</i> |
| All Participants | 201,881 | 67,786 | 31.7 | 134,095 | 68.3 |
| Alabama | 2,623 | 1,294 | 51.7 | 1,329 | 48.3 |
| Alaska | 2,716 | 1,627 | 57.8 | 1,089 | 42.2 |
| Arizona | 3,066 | 989 | 31.1 | 2,077 | 68.9 |
| Arkansas | 2,780 | 1,431 | 55.3 | 1,349 | 44.7 |
| California | 3,897 | 846 | 21.3 | 3,051 | 78.7 |
| Colorado | 1,947 | 629 | 34.7 | 1,318 | 65.3 |
| Connecticut | 7,449 | 1,279 | 16.7 | 6,170 | 83.3 |
| Delaware | 3,421 | 934 | 25.5 | 2,487 | 74.5 |

| | <i>Yes</i> | | | <i>No</i> | |
|--------------------------|---------------------|--------------------|----------|--------------------|----------|
| | <i>Total Number</i> | <i>Respondents</i> | <i>%</i> | <i>Respondents</i> | <i>%</i> |
| The District of Columbia | 1,859 | 66 | 3.8 | 1,793 | 96.2 |
| Florida | 4,454 | 1,072 | 24.5 | 3,382 | 75.5 |
| Georgia | 4,277 | 1,745 | 40.3 | 2,532 | 59.7 |
| Hawaii | 4,450 | 477 | 8.7 | 3,973 | 91.3 |
| Idaho | 4,430 | 2,394 | 55.3 | 2,036 | 44.7 |
| Illinois | 2,103 | 396 | 20.2 | 1,707 | 79.8 |
| Indiana | 3,851 | 1,390 | 39.1 | 2,461 | 60.9 |
| Iowa | 3,508 | 1,370 | 42.8 | 2,138 | 57.2 |
| Kansas | 4,421 | 1,715 | 42.1 | 2,706 | 57.9 |
| Kentucky | 7,245 | 3,664 | 47.7 | 3,581 | 52.3 |
| Louisiana | 4,800 | 1,977 | 44.1 | 2,823 | 55.9 |
| Maine | 2,326 | 869 | 40.5 | 1,457 | 59.5 |
| Maryland | 4,271 | 1,028 | 21.3 | 3,243 | 78.7 |
| Massachusetts | 8,474 | 934 | 12.6 | 7,540 | 87.4 |
| Michigan | 3,653 | 1,339 | 38.4 | 2,314 | 61.6 |
| Minnesota | 3,837 | 1,468 | 41.7 | 2,369 | 58.3 |
| Mississippi | 2,841 | 1,481 | 55.3 | 1,360 | 44.7 |
| Missouri | 3,981 | 1,753 | 41.7 | 2,228 | 58.3 |
| Montana | 3,066 | 1,723 | 57.7 | 1,343 | 42.3 |
| Nebraska | 3,584 | 1,342 | 38.6 | 2,242 | 61.4 |
| Nevada | 2,379 | 887 | 33.8 | 1,492 | 66.2 |
| New Hampshire | 3,863 | 1,091 | 30.0 | 2,772 | 70.0 |
| New Jersey | 5,901 | 597 | 12.3 | 5,304 | 87.7 |
| New Mexico | 3,439 | 1,212 | 34.8 | 2,227 | 65.2 |
| New York | 3,822 | 667 | 18.0 | 3,155 | 82.0 |
| North Carolina | 5,906 | 2,070 | 41.3 | 3,836 | 58.7 |
| North Dakota | 2,422 | 1,158 | 50.7 | 1,264 | 49.3 |
| Ohio | 3,288 | 897 | 32.4 | 2,391 | 67.6 |
| Oklahoma | 4,243 | 1,896 | 42.9 | 2,347 | 57.1 |
| Oregon | 2,433 | 901 | 39.8 | 1,532 | 60.2 |
| Pennsylvania | 3,533 | 1,160 | 34.7 | 2,373 | 65.3 |
| Rhode Island | 4,024 | 493 | 12.8 | 3,531 | 87.2 |
| South Carolina | 3,038 | 1,273 | 42.3 | 1,765 | 57.7 |
| South Dakota | 4,921 | 2,595 | 56.6 | 2,326 | 43.4 |
| Tennessee | 2,774 | 1,123 | 43.9 | 1,651 | 56.1 |
| Texas | 5,667 | 2,030 | 35.9 | 3,637 | 64.1 |
| Utah | 3,439 | 1,634 | 43.9 | 1,805 | 56.1 |
| Vermont | 4,190 | 1,639 | 42.0 | 2,551 | 58.0 |
| Virginia | 2,831 | 967 | 35.1 | 1,864 | 64.9 |
| Washington | 4,022 | 1,244 | 33.1 | 2,778 | 66.9 |
| West Virginia | 2,945 | 1,513 | 55.4 | 1,432 | 44.6 |
| Wisconsin | 3,290 | 1,307 | 44.4 | 1,983 | 55.6 |
| Wyoming | 2,859 | 1,614 | 59.7 | 1,245 | 40.3 |
| Guam | 859 | 115 | 14.3 | 744 | 85.7 |
| Puerto Rico | 4,230 | 275 | 6.7 | 3,955 | 93.3 |
| Virgin Islands | 2,233 | 196 | 8.3 | 2,037 | 91.7 |

Source: Washington Post.

The information in Table 12-1 is derived from survey data, and obviously does not represent a precise counting of the U.S. households with guns. There are no effective comprehensive records of U.S. firearms ownership. Analysis of the extent and character of gun ownership in America relies on estimates. These estimates are derived from several sources, including new firearms production numbers, national surveys, and the use of proxies like firearms suicides (the higher the percentage of suicides in which firearms are used, the higher the inferred rate of gun ownership), purchases of hunting licenses, and number of licensed firearm dealers. See Miller, Hemmenway, & Azrael, *Household Firearm Ownership Levels and Homicide Rates Across U.S. Regions and States (1988-1997)*, 92 Am. J. Pub. Health 1988-93 (2002); Azrael, Cook, & Miller, *State and Local Prevalence of Firearms Ownership: Measurement, Structure and Trends*, 20 J. Quantitative Criminology 43-62 (2004); Corzine, Huff-Corzine, & Weaver, *Using Federal Firearms Licenses (FFL) Data as an Indirect Measurement of Gun Availability*, in *The Varieties of Homicide and Its Research: Proceedings of the Homicide Research Working Group*: 1999 1 at 161 (2000).

Despite the caveats, the inference from Table 12-1 that rates of gun ownership may vary by state or region is probably sound. A variety of factors — from gun laws, to regional culture, to population density, to geography (availability or shortage of places to shoot) — may affect this variation.

2. Gun Ownership by Type

Assessments of ownership by gun type are imperfect. However, survey data indicate that about 44 percent of gun-owning households own a handgun and about two-thirds of handgun households also have long guns. Kleck, *supra*, at 69. Ownership characteristics also vary by race, with Blacks more likely to own handguns and less likely to own long guns than Whites. The Black handgun ownership rate is 6 to 9 percent higher than the rate for Whites, and Black long gun ownership 11 to 29 percent lower than the rate for Whites. National Research Council, *supra*, at 58; Kathleen Maguire & Ann L. Pastore, *Sourcebook of Criminal Justice Statistics* (2002). (The Sourcebook is an annual publication of the U.S. Bureau of Justice Statistics. All past Sourcebooks are available [here](#).)

The article below from Gallup offers more detail about American gun ownership. The article reflects some of the most recent estimates of U.S. gun ownership broken down by region and among various subgroups.

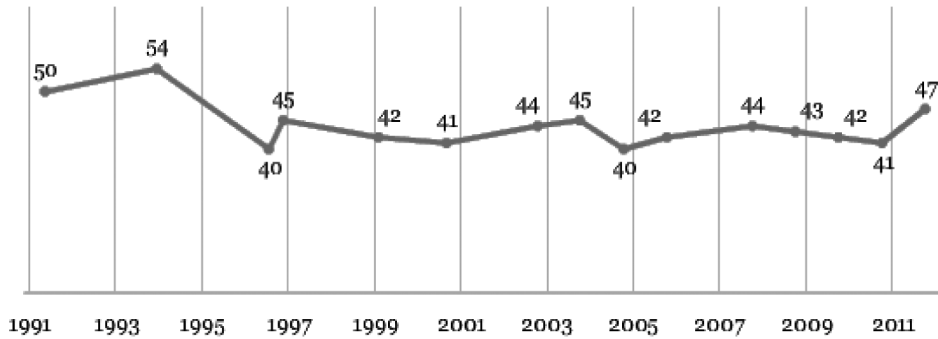
Lydia Saad, *Self-Reported Gun Ownership in U.S. Is Highest Since 1993: Majority of Men, Republicans, and Southerners Report Having a Gun in Their Households*
Gallup Politics (Oct. 26, 2011)

Forty-seven percent of American adults currently report that they have a gun in their home or elsewhere on their property. This is up from 41% a year ago and is the highest Gallup has recorded since 1993, albeit marginally above the 44% and 45% highs seen during that period.

U.S. Gun Households, 1991-2011

Do you have a gun in your home? (If no: Do you have a gun anywhere else on your property such as in your garage, barn, shed, or in your car or truck?)

■ Gun in home/elsewhere on property



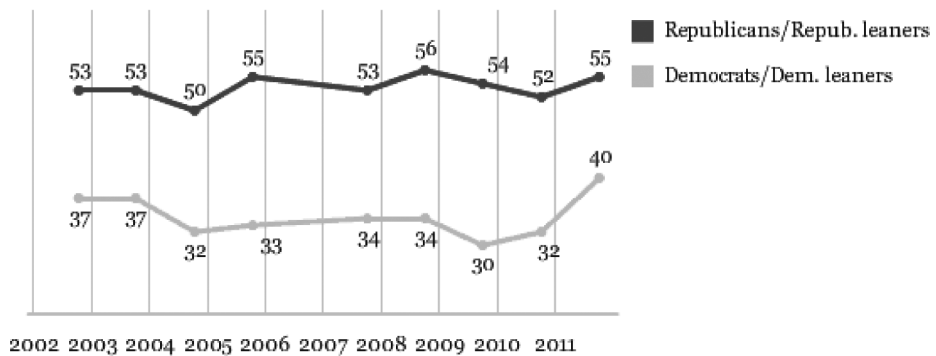
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The new result comes from Gallup’s Oct. 6-9 Crime poll, which also finds public support for personal gun rights at a high-water mark. Given this, the latest increase in self-reported gun ownership could reflect a change in Americans’ comfort with publicly stating that they have a gun as much as it reflects a real uptick in gun ownership.

Republicans (including independents who lean Republican) are more likely than Democrats (including Democratic leaners) to say they have a gun in their household: 55% to 40%. While sizable, this partisan gap is narrower than that seen in recent years, as Democrats’ self-reported gun ownership spiked to 40% this year.

Gun in Household, by Party ID

% Saying there is a gun in their home/on their property



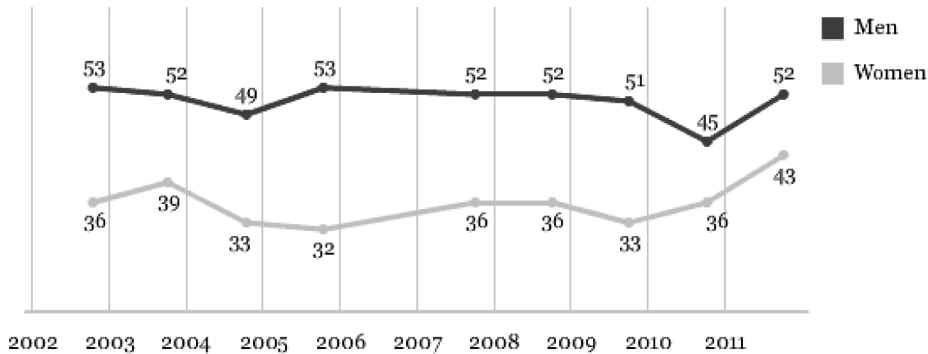
Trend from annual Gallup Crime survey, conducted in October

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The percentage of women who report household gun ownership is also at a new high, now registering 43%.

Gun in Household, by Gender

% Saying there is a gun in their home/on their property



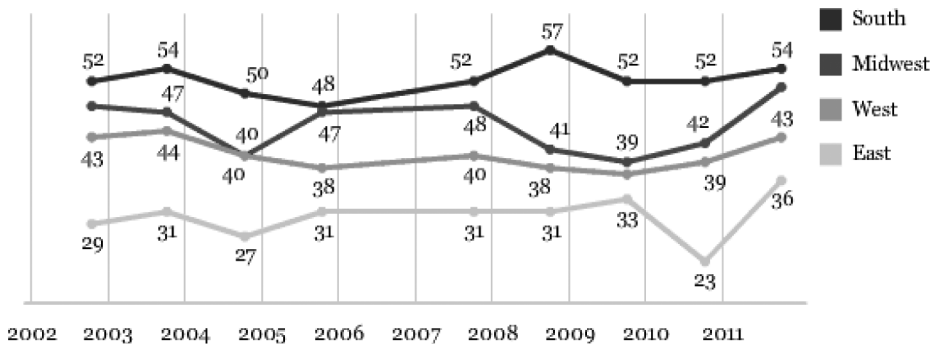
Trend from annual Gallup Crime survey, conducted in October

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Gun ownership is more common in the South (54%) and Midwest (51%) than in the East (36%) or West (43%) — a finding typical of Gallup’s trends in gun ownership by region.

Gun in Household, by Region

% Saying there is a gun in their home/on their property



Trend from annual Gallup Crime survey, conducted in October

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One in Three Americans Personally Own a Gun

Since 2000, Gallup has asked respondents with guns in their households a follow-up question to determine if the gun belongs to the respondent or to someone else. On this basis, Gallup finds that 34% of all Americans personally own a gun.

The gender gap in personal gun ownership is wider than that seen for household ownership, as 46% of all adult men vs. 23% of all women say they personally own a gun.

Middle-aged adults—those 35 to 54 years of age—and adults with no college education are more likely than their counterparts to be gun owners.

Summary of Gun Ownership

| | Personally owns gun | Other household member owns gun | No gun in household |
|-----------------------------------|--------------------------------|----------------------------------------------------|--------------------------------|
| | % | % | % |
| National adults | 34 | 13 | 51 |
| Men | 46 | 6 | 48 |
| Women | 23 | 20 | 55 |
| 18 to 34 | 23 | 13 | 63 |
| 35 to 54 | 38 | 14 | 46 |
| 55 and older | 24 | 9 | 66 |
| College graduate | 29 | 13 | 56 |
| Some college | 30 | 16 | 51 |
| No college | 40 | 11 | 48 |
| East | 29 | 7 | 63 |
| Midwest | 36 | 15 | 46 |
| South | 38 | 16 | 45 |
| West | 31 | 13 | 55 |
| Republican/Lean Republican | 41 | 14 | 43 |
| Democrat/Lean Democratic | 28 | 13 | 60 |

Oct. 6-9, 2011

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Bottom Line

A clear societal change took place regarding gun ownership in the early 1990s, when the percentage of Americans saying there was a gun in their home or on their property dropped from the low to mid-50s into the low to mid-40s and remained at that level for the next 15 years. Whether this reflected a true decline in gun ownership or a cultural shift in Americans' willingness to say they had guns is unclear. However, the new data suggest that attitudes may again be changing. At 47%, reported gun ownership is the highest it has been in nearly two decades — a finding that may be related to Americans' dampened support for gun-control laws. However, to ensure that this year's increase reflects a meaningful rebound in reported gun ownership, it will be important to see whether the uptick continues in future polling.

NOTES & QUESTIONS

1. Regional differences in gun ownership appear consistently in surveys, including in the data above. Look at Table 12-1 in Section B.1, which shows rates of gun ownership by state. Nearly all of the states where more than 40 percent of the respondents said they own a gun are located in either the South, the Mountain West, the Upper Midwest, or northern New England. What factors do you think contribute to these regional differences? Examine the gun crime rates by state provided in the Appendix. Is there a relationship between gun prevalence and gun crime rates?
2. What do you think explains the trends described in the recent Gallup survey? An actual increase in gun ownership? Americans being more socially comfortable about disclosing gun ownership to pollsters?
3. What do you think about living in a country where there are arguably slightly more guns than people? If you would prefer fewer guns, what would you say is the optimal number per capita?

C. *Defensive Gun Use: Frequency and Results*

Gun policy debates and news reporting tend to focus on the social costs of firearms, such as criminal misuse and accidents. But firearms are also used for lawful self-defense against criminal attack, which most people acknowledge as a social benefit. Some gun control advocates concede the theoretical legitimacy of armed self-defense but still argue that gun ownership is harmful overall. The argument often rests on the assumption that attempts to use guns defensively are rare or ineffective.

This skepticism raises two key questions: First, is self-defense with a gun practicable? That is, are armed self-defenders typically incompetent or likely to have the gun taken away and used against them? Subsection 1 below examines

the issue. The second question is, how often do gun owners actually use their guns defensively? Is it frequent enough to create enough social benefits to offset the costs of firearms? Subsection 2 addresses this question. As it turns out, the first question has a relatively clear answer. So far, the second does not.

1. Self-Defense and Victim Welfare: The Risk of Armed Self-Defense

What happens when an intended victim uses a gun to resist criminal attack? Having a gun is certainly no guarantee of safety. But what is the likelihood that the weapon will be taken away, or that resistance will enrage the criminal into a fatal attack? Data from the National Crime Victimization Survey show that this is very uncommon. A victim's weapon is taken by the attacker in no more than 1 percent of cases in which the victim uses a weapon. Data from the NCVS and other sources also show that "[t]here is no sound empirical evidence that resistance does provoke fatal attacks." Gary Kleck & Jongyeon Tark, *Resisting Crime: The Effects of Victim Action on the Outcomes of Crimes*, 42 *Criminology* 861, 903 (2005).

It also appears that resisting with a firearm does not increase the chance of victim injury. In a study of all of the NCVS data on robberies from 1979 to 1985, it emerged that resistance with a gun was the most effective form of resistance. It was both the method most likely to thwart the crime, and the method that most reduced the intended victim's likelihood of injury. Gary Kleck, *Crime Control Through the Private Use of Armed Force*, 35 *Soc. Probs.* 1, 7-9 (1988); Gary Kleck & Miriam DeLone, *Victim Resistance and Offender Weapon Effects in Robbery*, 9 *J. Quantitative Criminology* 55, 73-77 (1993); Gary Kleck & Marc Gertz, *Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun*, 86 *J. Crim. L. & Criminology* 150, 174-75 (1995); William Wells, *The Nature and Circumstances of Defensive Gun Use: A Content Analysis of Interpersonal Conflict Situations Involving Criminal Offenders*, 19 *Just. Q.* 127, 152 (2002).

The best indications from the NCVS data are that "[t]he use of a gun by the victim significantly reduces her chance of being injured" in situations when the robber is armed with a non-gun weapon. Lawrence Southwick, *Self-Defense with Guns: The Consequences*, 28 *J. Crim. Just.* 351, 362, 367 (2000). If the robber has a gun, or has no weapon, victim gun possession did not seem to affect injury rates. *Id.* Southwick concluded that if 10 percent more robbery victims had guns, the rate of serious victim injury from robbery would fall 3 to 5 percent.

NOTES & QUESTIONS

1. In contrast to many other questions in the gun control debate, the issue of takeaways is well-settled. There simply is no data indicating that takeaways from lawful defenders are a frequent occurrence. What do you think accounts for the enduring power of the takeaway scenario, as an argument against defensive gun ownership?
2. Do you think you would be able to use a firearm competently for self-defense? Do you think that most gun owners are capable of doing so? Why?

2. The Frequency of Defensive Gun Use

Current data suggest that the defensive use of guns can indeed be effective in preventing criminal victimization and/or injury. But how often are guns used defensively? The answer here is much more difficult to pin down. There have been 13 major surveys directly inquiring into the frequency of *defensive gun uses* (DGUs) in the modern United States. The surveys range from a low of 760,000 annually to a high of 3 million. The more recent studies are much more methodologically sophisticated. The survey results are summarized in Table 12-2 on the next page.

a. The National Crime Victimization Survey

The surveys referred to above asked respondents directly whether they had used a gun defensively. The National Crime Victimization Survey (NCVS) did not ask this question directly, but recorded DGUs that were disclosed in the course of interviewing subjects who reported being victimized by crime. It yielded far lower rates of defensive gun use. The data for this survey were derived from face-to-face interviews conducted by the Census Bureau in the subject's home. The interviews are done in conjunction with the Department of Justice. Most of the NCVS data are not published in a narrative format. Instead, they are available for researchers at the website of the Inter-University Consortium for Political and Social Research ([ICPSR](#)).

The NCVS data for the years 1992 to 2005 suggest about 97,000 DGUs annually, with 75,000 DGUs in 2005, the last year for which data are available. The figure is based on "[National Crime Victimization Survey, 1992-2005: Concatenated Incident-Level File](#)."

The combined tabulations in Table 12-3 suggest a DGU rate of 1.2 percent for violent crimes. The NCVS average crime rate per 1,000 U.S. population over the age of 12 in 1992-2005 was 35.8. The average population of the United States between 1992 and 2005 was 275,768,380. Of that population, 82 percent were over the age of 12.

Assessment of the NCVS as a Measure of DGUs

The NCVS survey and the resultant figure of about 100,000 DGUs per year are criticized as biased toward low results because the NCVS survey never asks respondents directly about DGUs. Also, the NCVS first asks if the respondent has been the victim of a crime, and does not proceed with further questions about an incident if the respondent answers "no." This potentially excludes people who did face a criminal incident, but defended themselves, and answered "no" because they do not consider themselves "victims." Finally, critics argue that the NCVS survey only asks about some crimes, and not the full scope of crimes from which a DGU might ensue. *See, e.g., Kleck, supra*, at 152-54 (1997).

TABLE 12-2
The 13 Studies of the Frequency of Defensive Gun Use

| Survey | Field | Bordua | DMI One | DMI Two | Hart | Ohio | Mausser | Gallup | Gallup | Kleck & Gertz | L.A. Times | Tarrance | Police Found. |
|-------------------------------|------------------------|-----------|-----------|-----------|-----------|------------------------|-----------|---------|-----------|---------------|----------------|------------------|---------------|
| Area | Cal. | Ill. | U.S. | U.S. | U.S. | Ohio | U.S. | U.S. | U.S. | U.S. | U.S. | U.S. | U.S. |
| Year of interviews | 1976 | 1977 | 1978 | 1978 | 1981 | 1982 | 1990 | 1991 | 1993 | 1993 | 1994 | 1994 | 1994 |
| Gun type covered | Handgun | All | All | All | Handgun | Handgun | All | All | All | All | All | All | All |
| Recall period | Ever/1 yr./2 yrs. | Ever | Ever | Ever | 5 yrs. | Ever | 5 yrs. | Ever | Ever | 1 yr. | Ever | 5 yrs. | 1 yr. |
| Exclude uses against animals? | No | No | No | Yes | Yes | No | Yes | No | No | Yes | No | Yes | Yes |
| Exclude military/police uses? | Yes | No | Yes | Yes | Yes | No | Yes | No | Yes | Yes | Yes | Yes | Yes |
| DGU to which question refers | Self | Self | Household | Household | Household | Self | Household | Self | Self | Self | Self | Self/Household | Self |
| % who used gun | 8.6/1.4/3 ^a | 5.0 | 15 | 7 | 4 | 6.5 | 3.79 | 8 | 11 | 1,326 | 8 ^c | 1/2 ^d | 1.44 |
| % who fired gun | 2.9 | n.a. | 6 | n.a. | n.a. | 2.6 | n.a. | n.a. | n.a. | 0.63 | n.a. | n.a. | 0.70 |
| Implied annual number of DGUs | 3,052,717 | 1,414,544 | 2,141,512 | 1,098,409 | 1,797,461 | 771,043 | 1,487,342 | 777,153 | 1,621,377 | 2,549,862 | 3,609,682 | 764,036 | 1,460,000 |
| | | | | | | (extrapolated to U.S.) | | | | | | | |

Source: Defensive Gun Use Surveys are from Gary Kleck, Targeting Guns: Firearms and Their Control ch. 5 (1997).

Notes to Table:

^a1.4% in past year, 3% in past two years, 8.6% ever.

^bEstimated annual number of DGUs of guns of all types against humans, excluding uses connected with military or police duties, after any necessary adjustments were made, for United States, 1993.

^cCovered only uses outside the home.

^d1% of respondents, 2% of households.

TABLE 12-3
NCVS Survey on DGUs

| <i>Self-protective action: Attacked offender with gun</i> | | | |
|-----------------------------------------------------------|------------------|----------------|-------------------|
| | <i>Frequency</i> | <i>Percent</i> | <i>Cumulative</i> |
| No | 29,906 | 17.53 | 17.53 |
| Yes | 83 | 0.05 | 17.58 |
| Out of universe | 140,639 | 82.42 | 100 |
| Total | 170,628 | | 100 |

| <i>Self-protective action: Threatened offender with gun</i> | | | |
|-------------------------------------------------------------|------------------|----------------|-------------------|
| | <i>Frequency</i> | <i>Percent</i> | <i>Cumulative</i> |
| No | 29,708 | 17.41 | 17.41 |
| Yes | 281 | 0.16 | 17.58 |
| Out of universe | 140,639 | 82.42 | 100 |
| Total | 170,628 | | 100 |

b. Kleck & Gertz Survey

Gary Kleck and Marc Gertz conducted an especially thorough survey in 1993, with safeguards intended to weed out respondents who might misdescribe a DGU story. Kleck and Gertz found a midpoint estimate of 2.5 million DGUs annually with a possible range of 2 to 3 million. See Gary Kleck & Marc Gertz, *Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun*, 86 J. Crim. L. & Criminology 150 (1995).

Facing the threshold question of how to define a DGU, Kleck and Gertz offered the following definition:

Questions about the details of DGU incidents permitted us to establish whether a given DGU met all of the following qualifications for an incident to be treated as a genuine DGU: (1) the incident involved defensive action against a human rather than an animal, but not in connection with police, military, or security guard duties; (2) the incident involved actual contact with a person, rather than merely investigating suspicious circumstances, etc.; (3) the defender could state a specific crime which he thought was being committed at the time of the incident; (4) the gun was actually used in some way — at a minimum it had to be used as part of a threat against a person, either by verbally referring to the gun (e.g., “get away — I’ve got a gun”) or by pointing it at an adversary. We made no effort to assess either the lawfulness or morality of the [respondents’] defensive actions.

Id. at 162-63. Thus, under Kleck and Gertz’s approach, an incident can qualify as a DGU even if no shots were fired.

The Kleck & Gertz survey found that 80 percent of defensive uses involved handguns, and that 76 percent of defensive uses do not involve firing the weapon, but rather merely brandishing it to scare away an attacker. *Id.* at 175. Their Kleck & Gertz findings received an important endorsement from Marvin Wolfgang, “the most influential criminologist” in the English-speaking world. Ellen Cohn & David Farrington, *Who Are the Most Influential Criminologists in the English-Speaking World?*, 34 Brit. J. Criminology 204 (1994) (based on citations in top journals). Wolfgang was President of the American Society of Criminology,

and President of the American Academy of Political and Social Science and an ardent supporter of gun prohibition. Reviewing the Kleck & Gertz findings, Wolfgang wrote that he could find no methodological flaw, nor any other reason to doubt the correctness of the 2.5 million DGU figure:

I am as strong a gun-control advocate as can be found among the criminologists in this country. . . . I would eliminate all guns from the civilian population and maybe even from the police. I hate guns. . . .

Nonetheless, the methodological soundness of the current Kleck and Gertz study is clear. . . .

. . .

The Kleck and Gertz study impresses me for the caution the authors exercise and the elaborate nuances they examine methodologically. I do not like their conclusions that having a gun can be useful, but I cannot fault their methodology. They have tried earnestly to meet all objections in advance and have done exceedingly well.

Marvin Wolfgang, *A Tribute to a View I Have Opposed*, 86 J. Crim. L. & Criminology 188, 191-92 (1995).

c. *Other Surveys*

Philip Cook of Duke, Jens Ludwig of Georgetown, and David Hemenway of Harvard were skeptical of the Kleck & Gertz results, and conducted their own survey for the Police Foundation. Yet that survey also yielded a high number, with an estimate of 1.46 million DGUs. Philip Cook & Jens Ludwig, *Guns in America: Results of a Comprehensive National Survey of Firearms Ownership and Use* 62-63 (1996). Cook and Ludwig argue that their own study produced implausibly high numbers, and they adopted the novel (for them) position that it was impossible to accurately measure DGUs. *Id.* at 68-75. For a response, see Gary Kleck, *Has the Gun Deterrence Hypothesis Been Discredited?*, 10 J. Firearms & Pub. Pol'y 65 (1998).

The National Opinion Research Center (NORC), for its part, argues that the figures from the Kleck & Gertz survey are probably too high, but the NCVS figures too low. NORC estimates the actual annual DGU figure to be somewhere in the range of 256,500 to 1,210,000. Tom Smith, *A Call for a Truce in the DGU War*, 87 J. Crim. L. & Criminology 1462 (1997).

The vast majority of DGUs in the survey estimates do not involve actual shootings, which are comparatively rare. Some critics are skeptical of the survey estimates and emphasize the dramatic difference between the DGU numbers, on one hand, and other indications of legitimate shootings, on the other. For example, the FBI compiles reported instances of justifiable homicide in the Uniform Crime Reports. The tables below show reported justifiable homicides by police (Table 12-4) and civilians (Table 12-5). As shown in the tables, police and private citizens combined commit fewer than 1,000 justified homicides with firearms per year. This number seems almost insignificant in comparison to the survey estimates of hundreds of thousands, or even millions, of total DGUs per year.

TABLE 12-4

Justifiable Homicide

by Weapon, Law Enforcement,¹ 2006-2010

| Year | Total | Total | | | | Firearms, type not stated | Knives or cutting instruments | Other dangerous weapons | Personal weapons |
|------|------------|----------|----------|--------|----------|---------------------------------|-------------------------------------|-------------------------------|---------------------|
| | | firearms | Handguns | Rifles | Shotguns | | | | |
| 2006 | 386 | 386 | 330 | 25 | 11 | 20 | 0 | 0 | 0 |
| 2007 | 398 | 395 | 351 | 19 | 8 | 17 | 1 | 1 | 1 |
| 2008 | 378 | 373 | 305 | 30 | 13 | 25 | 1 | 2 | 2 |
| 2009 | 414 | 411 | 326 | 29 | 6 | 50 | 0 | 3 | 0 |
| 2010 | 387 | 385 | 315 | 26 | 6 | 38 | 1 | 1 | 0 |

¹The killing of a felon by a law enforcement officer in the line of duty.

TABLE 12-5

Justifiable Homicide

by Weapon, Private Citizen,¹ 2006-2010

| Year | Total | Total | | | | Firearms, type not stated | Knives or cutting instruments | Other dangerous weapons | Personal weapons |
|------|------------|----------|----------|--------|----------|---------------------------------|-------------------------------------|-------------------------------|---------------------|
| | | firearms | Handguns | Rifles | Shotguns | | | | |
| 2006 | 238 | 192 | 154 | 12 | 15 | 11 | 31 | 12 | 3 |
| 2007 | 257 | 202 | 161 | 8 | 21 | 12 | 37 | 8 | 10 |
| 2008 | 265 | 219 | 171 | 13 | 13 | 22 | 35 | 9 | 20 |
| 2009 | 266 | 218 | 167 | 9 | 19 | 23 | 30 | 10 | 80 |
| 2010 | 278 | 232 | 170 | 8 | 26 | 28 | 30 | 110 | 5 |

¹The killing of a felon, during the commission of a felony, by a private citizen.

NOTES & QUESTIONS

1. What do you make of the DGU data? As you have read, even surveys by strong skeptics produce results indicating a very large number of annual DGUs. See, e.g., Philip J. Cook, Jens Ludwig, & David Hemenway, *The Gun Debate's New Mythical Number: How Many Defensive Uses Per Year*, 16 J. Pol'y Analysis & Mgmt. 463 (1997) (expressing skepticism about the Kleck & Gertz results but acknowledging that the survey was conducted according to current professional standards, and that its results were reproduced in subsequent surveys).

Skeptics raise a variety of objections to the survey results, including that the implied numbers for wounded or killed aggressors do not show up in public health data. Even the low, alternative figure drawn from the NCVS is itself about 100,000 DGUs a year, still a surprisingly high number to some observers.

If the NCVS figure is correct, then the number of DGUs is much smaller than the number of gun crimes annually. If the Kleck & Gertz and Police Foundation figures are correct, DGUs outnumber gun crimes. Is it legitimate for the state to make decisions about whether individuals can have

guns for self-defense based on whether beneficial DGUs do or do not outnumber use of guns in violent crimes? Does *District of Columbia v. Heller*, 554 U.S. 570 (2008) (Chapter 9), affect the answer?

2. Besides DGUs and gun use in crime, there are other social costs and benefits of firearms. Some researchers argue that gun ownership (and especially the lawful carrying of defensive handguns) produces enormous benefits in terms of crime deterrence. *E.g.*, John R. Lott, Jr., *More Guns, Less Crime: Understanding Crime and Gun Control Laws* (3d ed. 2010). Others argue that the psychological burden caused by fear of gun crime imposes quantifiable economic costs. *See* Mark Warr, *Fear of Crime in the United States: Avenues for Research and Policy* (2000). Many people get enjoyment from hunting, target shooting, and gun collecting, and all these activities, particularly hunting, produce economic benefits. What other benefits and harms should be taken into account?

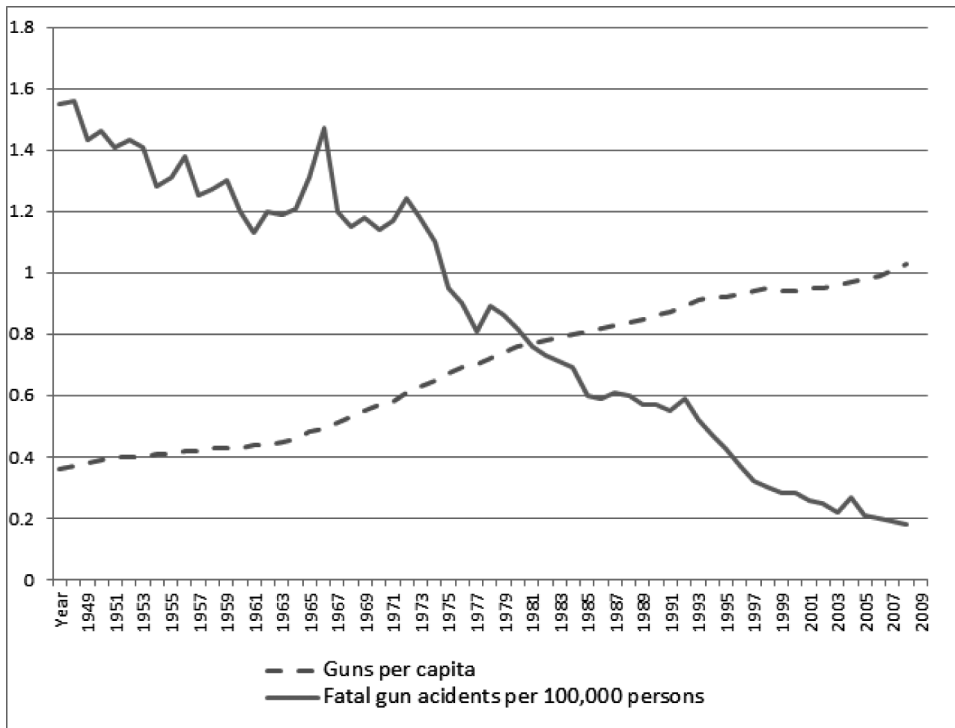
3. Defensive gun users are seldom reported by national news outlets; unlawful shootings, by contrast, are reported relatively often. Local news reporting, however, much more frequently includes both types of stories. This is especially true in more gun-friendly areas. An updated list of links to videos of reports of defensive gun uses is available on this casebook's public website, <http://firearmsregulation.org>, in the Student Research and Tools section.

D. Firearm Accidents

Gun accidents are a tiny percentage of the overall number of deaths from guns and deaths generally. The accidental death rate has been falling for the last four decades. Accidental firearms deaths among children have also declined sharply and are far less common than many people believe. While it is axiomatic that homes with guns will have more gun accidents than homes without guns, the actual risk posed by having a gun in the home turns out to be quite small and the gun accident rate does not seem to be driven by the rate of gun ownership.

To the contrary, gun ownership has increased greatly in the past few generations, yet this has not corresponded with an increase in fatal gun accidents. As the chart below and Table 12-22 show, from 1948 to 2009 the U.S. per capita number of firearms has risen by 186 percent, while the per capita death rate from firearms accidents has declined by 88 percent. Over the same period (starting in 1950, when childhood accident data become available), the accidental gun death rate for children (ages 0 to 14) has fallen by 93 percent, from 1.10 per 100,000 population to 0.08. *See* Table 12-22.

Note that the scales in the following chart differ by a magnitude of 100,000. The scale for guns per capita is guns per individual. In 1948 there were 0.36 guns per person. (That is, about one gun for every three Americans.) By 2009, there was about one gun for every American. The scale for fatal gun accidents is per 100,000 persons. In 1948, there were 1.55 fatal gun accidents per 100,000 persons. By 2009, the rate had fallen by 88 percent, so that there were 0.18 fatal accidents per 100,000 persons.



Fatal gun accident rate versus the number of guns per capita, 1948-2009

Thus, the fatal gun accident rate for all ages is today at an all-time low, while the per capita gun supply is at an all-time high. The annual risk level for a fatal gun accident is around 0.18 per 100,000 population—less than the risk of taking two airplane trips a year, or getting a whooping cough vaccination. Stephen Breyer, *Breaking the Vicious Circle: Toward Effective Risk Regulation* 5, 7 (1992) (airplane and vaccine data).

By way of comparison, swimming pools are involved in far more accidental child fatalities than are firearms. National Safety Council, *Injury Facts 2007*, at 133, 144. In 2003, there were 7 accidental firearms deaths for children aged under 5, and 49 deaths for ages 5 to 14. For the same two combined age groups in that same year, there were 86 accidental deaths in bathtubs, and 285 deaths in swimming pools. Steven Levitt & Stephen Dubner, *Freakonomics* 135-36 (rev. ed. 2006). Indeed, swimming pool accidents cause more deaths of children under ten years of age than *all* forms of death by firearm combined—accident, homicide, and suicide. For accidents, “[t]he likelihood of death by pool (1 in 11,000) versus death by gun (1 in 1 million-plus) isn’t even close.” *Id.* (parentheticals in original).

1. Why Have Fatal Gun Accident Rates—Including Rates for Children—Plunged?

There are many possible explanations for the decline in gun accidents, and perhaps all of them have contributed. First, there are now more trauma centers,

and better life-saving surgical techniques, than there were half a century ago. Improved emergency medical care is also one reason why U.S. firearms homicide rates are lower than they might otherwise be.

Second, since the mid-twentieth century, handguns have replaced long guns as the firearm most often kept in the home. Handguns can be hidden from inquisitive children more easily than long guns. Also, handguns generally are less powerful than long guns.

Third, while groups such as the Boy Scouts and 4-H have always taught gun safety to young people, gun safety education is more widespread today. For example, the National Shooting Sports Foundation (the trade association for the gun industry) has partnered with state Lieutenant Governors in programs to distribute free gun locks en masse.

The National Rifle Association’s “Eddie Eagle Gun Safety Program,” created in 1988, has been taught to more than 20 million schoolchildren. The program teaches children that if they find a gun, “Stop! Don’t touch! Leave the area! Tell an adult.” The program won the silver Award of Merit from the Youth Activities Division of the National Safety Council.

As for adults who cause gun accidents, the one in-depth study on the topic found that these individuals also tend to have high rates of “arrests, violence, alcohol abuse, highway crashes, and citations for moving traffic violations.” Julian Waller & Elbert Whorton, *Unintentional Shootings, Highway Crashes, and Acts of Violence*, 5 *Accident Analysis & Prevention* 351, 353 (1973). In contrast to the period covered by the Waller and Whorton study, many more such people are now prevented from legally buying a gun by the National Instant Check System enacted in 1993.

Another factor that has probably reduced accidents is product liability lawsuits. Poorly made guns that are genuinely defectively designed (e.g., a gun that would readily discharge when dropped) have been greatly reduced in the market because of the cost of paying successful plaintiffs. The Protection of Lawful Commerce in Arms Act of 2005 (Chapter 8.D.6) does not limit tort actions against manufacturers of guns with this kind of design defect.

About half of all fatal gun accidents involve hunting. Starting with New York State in 1948, all American states have adopted regulations that require those applying for a hunter license to pass a hunter safety class. These classes have probably reduced hunting fatalities from all sorts of carelessness (e.g., carrying a loaded gun while climbing over a fence or sitting in a tree stand without a safety harness).

Finally, and most controversially, there are the Child Access Prevention (CAP) laws, enacted by a minority of states. These laws mandate that guns be locked away and inaccessible to unsupervised minors. Empirical studies of CAP laws have come to conflicting conclusions. One study, published in *JAMA* (the *Journal of the American Medical Association*), found a statistically significant¹ reduction in gun accidents following the enactment of such laws. Peter Cummings, D.C. Grossman, F.P. Rivara, & T.D. Koepsell, *State Gun Safe Storage Laws and Child Mortality Due to Firearms*, 278 *JAMA* 1084 (1997). Some criticized the study because its statistical significance depended disproportionately on results

1. For more on what it means to be “statistically significant,” see online Chapter 14.B.

from a single state, Florida. Daniel W. Webster & Marc Starnes, *Reexamining the Association between Child Access Prevention Gun Laws and Unintentional Shooting Deaths of Children*, *Firearm Deaths among Children*, 106 *Pediatrics* 1466, 1466-69 (2000).

Another study compared crime, accident, and suicide trends in states with CAP laws with trends in other states, while controlling for the effect of numerous sociological factors. John R. Lott, Jr., & John E. Whitley, *Safe Storage Gun Laws: Accidental Deaths, Suicides, and Crime*, 44 *J.L. & Econ.* 659 (2001). The study found no statistically significant reduction in accidents involving children or teenagers. Teenage suicides *by firearm* decreased, but not the overall teenage suicide rate. There were also large, statistically significant increases in violent crime and homicide:

Rapes, robberies, and burglaries . . . rise by 9, 11, and 6 percent, respectively, as a result of safe storage laws. . . . The fifteen states with safe storage laws would be expected to experience 168 more murders in the first full year that the law is in effect. The number of murders peaks in the fourth full year at 380 murders. . . . During the five full years after the passage of the safe storage laws, the fifteen states face an annual average increase of 309 more murders, 3,860 more rapes, 24,650 more robberies, and over 25,000 more aggravated assaults.

Id. at 43. The crime increase was most severe in states where CAP law violation was a felony—the only states where *JAMA* found the law to be effective. (Again, the results are statistical estimates. Not every state would, for example, have 9 percent more rape. But on average, according to Lott and Whitley’s analysis, rape would increase by roughly 9 percent after the enactment of a CAP law.)

2. How Common Are Gun Accidents Compared to Other Accidents?

Our informal surveys suggest that many people have an exaggerated intuition about the risk of death from the accidental discharge of firearms. For a clear perspective, it is useful to compare firearms accidents with other causes of accidental death. Table 12-6 is broken down by age, and shows how the risk of accidental death from various sources changes over an individual’s lifespan.

NOTES & QUESTIONS

1. Accidental discharge of firearms is the least likely of all causes of accidental death listed. Does this surprise you? Why? Does the relatively low risk of death from accidental firearm discharge change your thinking about firearms policy in any way?
2. As you assess the risks and benefits of private firearms, how does the material on accidental deaths from firearms affect your policy preferences? Consider the data in Section C above about defensive gun uses (DGUs) by private citizens. Does the comparison of DGUs versus accidental death affect your view about the wisdom or folly of owning a gun? What other factors go into

TABLE 12-6
Breakdown of Deaths from Accidents, Excerpted from CDC
Table “Number of deaths from 113 selected causes, United States, 2009”

| <i>Cause of death</i> | <i>All ages</i> | <i>Under 1 year</i> | <i>1-4 years</i> | <i>5-14 years</i> | <i>15-24 years</i> | <i>25-34 years</i> | <i>35-44 years</i> | <i>45-54 years</i> | <i>55-64 years</i> | <i>65-74 years</i> | <i>75-84 years</i> | <i>85 years and over</i> | <i>Not stated</i> |
|---------------------------------------------------------------------|-----------------|---------------------|------------------|-------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------------|-------------------|
| Accidents (unintentional injuries) | 118,021 | 1,181 | 1,466 | 1,689 | 12,458 | 14,062 | 15,102 | 19,974 | 12,933 | 8,940 | 13,482 | 16,689 | 45 |
| Transport accidents | 39,031 | 97 | 510 | 1,060 | 7,960 | 6,253 | 5,515 | 6,334 | 4,604 | 2,949 | 2,566 | 1,172 | 11 |
| Motor vehicle accidents | 36,216 | 95 | 479 | 974 | 7,688 | 5,887 | 5,066 | 5,695 | 4,082 | 2,693 | 2,425 | 1,123 | 9 |
| Other land transport accidents | 1,033 | 1 | 24 | 44 | 121 | 134 | 152 | 216 | 155 | 94 | 61 | 30 | 1 |
| Water, air and space, and other and unspecified transport accidents | 1,782 | 1 | 7 | 42 | 151 | 232 | 297 | 423 | 367 | 162 | 80 | 19 | 1 |
| Nontransport accidents | 78,990 | 1,084 | 956 | 629 | 4,498 | 7,809 | 9,587 | 13,640 | 8,329 | 5,991 | 10,916 | 15,517 | 34 |
| Falls | 24,792 | 19 | 46 | 28 | 192 | 302 | 551 | 1,341 | 1,888 | 2,850 | 6,986 | 10,586 | 3 |
| Accidental discharge of firearms | 554 | 1 | 15 | 32 | 132 | 99 | 76 | 61 | 60 | 46 | 21 | 11 | - |
| Accidental drowning and submersion | 3,517 | 45 | 450 | 209 | 548 | 396 | 392 | 507 | 418 | 247 | 203 | 95 | 7 |
| Accidental exposure to smoke, fire, and flames | 2,756 | 24 | 167 | 141 | 142 | 200 | 233 | 417 | 444 | 386 | 393 | 209 | - |
| Accidental poisoning and exposure to noxious substances | 31,758 | 22 | 37 | 50 | 3,044 | 6,209 | 7,388 | 9,675 | 3,913 | 764 | 415 | 235 | 6 |
| Other and unspecified nontransport accidents | 15,613 | 973 | 241 | 169 | 440 | 603 | 947 | 1,639 | 1,606 | 1,698 | 2,898 | 4,381 | 18 |

Source: Centers for Disease Control.

your assessment? Does anything change when you consider the cost-benefit assessment as a question of public policy versus one of personal choice to own a firearm?

3. An example of how the statistical findings of Lott and Whitley might manifest in the real world was an incident in Merced, California, in August 2000. There, a pitchfork-wielding man cut the phone lines to a home, then broke in and began attacking the four children, while their parents were not home. The oldest child, 14-year-old Jessica Carpenter, was unable to retrieve her father's guns from a locked cabinet. She ran to a neighbor's home, and begged him to use his own gun to confront the attacker. The neighbor did not do so, but called 911. By the time the police arrived, Jessica Carpenter's seven-year-old brother and nine-year-old sister were murdered. Jessica's father's guns were locked up in accordance with the California felony CAP law. Kimi Yoshino, *No Easy Answers: Gun Advocates Say Fear of Liability Keeps Parents from Teaching Survival Skills*, Fresno Bee, Aug. 26, 2000, at A1; Vin Suprynowicz, *If It'll Save a Single Child . . . Repeal the Gun Laws*, Las Vegas Rev. J., Sept. 24, 2000, at 2K; John R. Lott Jr., *Unsafe Gun Laws: Reducing Access to Guns Makes People Sitting Prey*, Investors Bus. Daily, Sept. 22, 2000, at A24.

E. Firearm Suicide

By far the largest number of gun deaths each year in the United States are from suicide. Older white men account for the largest number of these suicides. Firearm & Injury Center at Penn, [Firearms Injury in the U.S.](#) 14 (“The risk for death from firearm suicide is highest among white males over age 75. In 2002 the age-adjusted rate of firearm suicide among men over 80 was more than twice that of any other age group.”); National Inst. of Mental Health, [Suicide in the U.S.](#): Statistics and Prevention.

Among social scientists, there is agreement that gun control laws that reduce overall rates of firearm ownership can reduce the number of *firearm* suicides. There is disagreement about whether they reduce the overall suicide rate, or whether people blocked from using a gun will just choose other means.

Some small but uncontradicted studies indicate that gun availability may increase the suicide “success” rate among youths, and thus the total number of youth suicides.

Several U.S. [case control studies](#) have compared individuals who died by suicide with persons who did not and found that those dying by suicide were more likely to live in homes with guns.

For example, [Brent](#) and colleagues studied three groups of adolescents: 47 suicide decedents, 47 inpatient attempters, and 47 psychiatric inpatients who had never attempted suicide. Those who died by suicide were twice as likely to have a gun at home than either of the other two groups:

| | <i>Adolescent Suicides</i> | <i>Adolescent Psychiatric Inpatients</i> | |
|------------------|----------------------------|------------------------------------------|-----------------------|
| | | <i>Attempters</i> | <i>Non-attempters</i> |
| Firearm in home: | 72% | 37% | 38% |

A later psychological autopsy study . . . compared 140 adolescent suicide decedents with 131 demographically similar community controls. Informants (usually a parent) for both groups were interviewed to learn about the adolescent’s life circumstances, mental health, and treatment status. Firearm access was a risk factor for suicide for both older (>15 years) and younger adolescents and for both males and females.

How States Compare

Ecologic studies that compare U.S. states with high gun ownership levels to those with lower levels find that where there are more guns, there are more suicides. The higher suicide rates result from higher firearm suicides. The non-firearm suicide rate is about equal across states.

For example, one study . . . used survey-based measures of state household firearm ownership (from the CDC’s Behavioral Risk Factor Surveillance System) while controlling for state-level measures of mental illness, drug and alcohol abuse, and other factors associated with suicide. The study found that males and females and people of all age groups were at higher risk for suicide if they lived in a state with high firearm prevalence. This is most evident when looking not at rates or regression results but at raw numbers. The authors compared the 40 million people who live in the states with the lowest firearm prevalence (HI, MA, RI, NH, CT, NY) to about the same number living in the states with the highest firearm prevalence (WY, SD, AK, WV, MT, AR, MS, IO, ND, AL, KY, WI, LA, TN, UT). Overall suicides were almost twice as high in the high-gun states, even though non-firearm suicides were about equal.

Harvard School of Public Health, *Firearm Access Is a Risk Factor for Suicide*, <http://www.hsph.harvard.edu/means-matter/means-matter/risk> (collecting additional research suggesting a link between firearms availability and suicide rates).

Guns are more lethal than other suicide means. About 85 percent of attempts with a firearm are fatal. That is a much higher fatality rate than for nearly every other method. *See* Harvard School of Public Health, *Lethality of Suicide Method*.

Suicide rates are higher in rural areas. Firearm ownership is also higher in rural areas.

Perhaps it is not the presence of firearms, per se, but something about rural life that leads to greater depression and suicidality, or, alternately, perhaps there is a character trait (such as self-reliance and an inclination to “go it alone”) that may be associated both with firearm ownership and suicide and it is this trait, not the presence of the gun, that leads to the association [between suicide rates and rurality].

The evidence is not strong for either of these hypotheses. Most studies of rurality and depression have found that people in rural areas do not have higher

rates of depression than those in urban areas. . . . In addition, data from the National Comorbidity Study indicate that people living in homes with guns are about as likely as those living in homes without guns to suffer from depression, substance use problems, and suicidal thoughts. . . .

Harvard School of Public Health, Firearm Access Is a Risk Factor for Suicide, <http://www.hsph.harvard.edu/means-matter/means-matter/risk>.

NOTES & QUESTIONS

1. Is suicide reduction a convincing rationale for restricting access to firearms? If so, what sorts of gun regulations would you suggest to reduce the rate of firearms suicide?
2. Are suicidal tendencies and the need for self-defense mutually exclusive? Imagine a woman who is despondent and potentially suicidal because of conflict with her boyfriend and father of her children. Imagine that this conflict includes intermittent violent threats from the boyfriend. Would you consider it more important to keep her away from guns (to reduce the suicide threat) or to give her access to a gun (for self-defense)? Would you feel confident making that decision as a matter of general policy? Would you feel more confident making that decision on an individual basis after fully assessing her circumstances? Would you ever feel comfortable making this sort of decision for another person? Are you comfortable with an agent of the state making the decision?
3. In the late nineteenth century, so-called “suicide specials” were small, low-priced, single-action revolvers. They were made until 1890, when they were rendered obsolete by the double-action revolver. Donald B. Webster, *Suicide Specials* (1958). Assume that the legislature determined that a particular class of firearms was disproportionately used in suicide. Would you support a ban on this class of “suicide” guns? Do you think such a ban would be constitutional under *District of Columbia v. Heller* (Chapter 9)? Would it be effective in reducing suicides? Would it make a difference whether these suicide guns were handguns or long guns? What if these “suicide” guns were only a small segment (say, less than 5 percent) of all handguns?
4. Is suicide better addressed as a mental health issue or an issue of firearms policy? Or is it a combination of both? If there were no constitutional barrier to banning gun ownership, would you favor a total gun ban as an answer to the problem of firearms suicide? A mental health exam for anyone buying a gun, and perhaps exams every few years for persons wishing to renew a gun ownership license? As noted in Chapter 14.C.2, Japan has such a policy. Japan, an almost gunless society, also has approximately double the U.S. suicide rate.

Of the many reasons suggested by researchers for the high Japanese suicide rate, one of the most startling is weapons control. Japanese scholars Mamoru Iga and Kichinosuke Tatai argue that one reason Japan has a suicide problem is that people have little sympathy for suicide victims. Iga and Tatai suggest that the lack of sympathy (and hence the lack of social will to deal with a high suicide rate) is based on the Japanese feelings of insecurity and consequent lack of empathy. They trace the lack of empathy to a “dread of power.” That dread is caused in part by the awareness that a person cannot count on others for help against violence or against authority. In addition, say Iga and Tatai, the dread of power among some Japanese people stems from their being forbidden to possess swords or firearms for self-defense. Mamoru Iga & Kichinosuke Tatai, *Characteristics of Suicide and Attitudes toward Suicides in Japan*, in *Suicide in Different Cultures* 273 (Norman L. Farberow ed., 1975).

David B. Kopel, *Japanese Gun Control*, 2 *Asia-Pac. L. Rev.* 26 (1993).

F. Firearm Violent Crime

As demonstrated in the discussions of the National Firearms Act and the Gun Control Act in Chapters 7 and 8, modern firearms policy has been primarily a response to concerns about gun crime. This section provides the details of criminal misuse of firearms. It will give you some context for existing and proposed firearms regulation and policies.

1. Homicides

Firearms account for the majority of homicides in the United States, and handguns account for the majority of firearm homicides. Table 12-7 was compiled as part of the FBI Uniform Crime Reports. It shows a decline in the rate of firearms murder by weapon type for 2006-10.

TABLE 12-7

| Murder Victims | | | | | |
|----------------------------------------------------------|---------------|---------------|---------------|---------------|---------------|
| by Weapon, 2006-2010 | | | | | |
| <i>Weapons</i> | <i>2006</i> | <i>2007</i> | <i>2008</i> | <i>2009</i> | <i>2010</i> |
| Total | 15,087 | 14,916 | 14,224 | 13,752 | 12,996 |
| Total firearms: | 10,225 | 10,129 | 9,528 | 9,199 | 8,775 |
| Handguns | 7,836 | 7,398 | 6,800 | 6,501 | 6,009 |
| Rifles | 438 | 453 | 380 | 351 | 358 |
| Shotguns | 490 | 457 | 442 | 423 | 373 |
| Other guns | 107 | 116 | 81 | 96 | 96 |
| Firearms, type not stated | 1,354 | 1,705 | 1,825 | 1,828 | 1,939 |
| Knives or cutting instruments | 1,830 | 1,817 | 1,888 | 1,836 | 1,704 |
| Blunt objects (clubs, hammers, etc.) | 618 | 647 | 603 | 623 | 540 |
| Personal weapons (hands, fists, feet, etc.) ¹ | 841 | 869 | 875 | 817 | 745 |
| Poison | 12 | 10 | 9 | 7 | 11 |
| Explosives | 1 | 1 | 11 | 2 | 4 |
| Fire | 117 | 131 | 85 | 98 | 74 |
| Narcotics | 48 | 52 | 34 | 52 | 39 |
| Drowning | 12 | 12 | 16 | 8 | 10 |
| Strangulation | 137 | 134 | 89 | 122 | 122 |
| Asphyxiation | 106 | 109 | 87 | 84 | 98 |
| Other weapons or weapons not stated | 1,140 | 1,005 | 999 | 904 | 874 |

¹Pushed is included in personal weapons.

Many people have intuitions and presumptions about the context and causes of violent crime. Those intuitions and presumptions often shape views about firearms policy. Tables 12-8 and 12-9 report murder circumstances by relationship and weapon type, where available. (In more than a third of the cases, the circumstances are unknown.) Robbery is the most commonly specified circumstance, followed by youth gangland killings. Consider whether the data comports with your intuitions. As you move from one circumstance to the next, consider whether any particular firearms policy would offer a plausible answer.

The chart on page 32 and Table 12-22 show that from 1948 to 2009 the U.S. per capita number of firearms has risen by 186 percent. At the same time, the homicide rate has varied. At its peak in 1980, the homicide rate per 1,000,000 persons was 82 percent higher than in 1948. In 2009, the rate was 11 percent lower than in 1948.

Note that the scales in the chart differ by a magnitude of 1,000,000 (as the chart in Section D on accidents also uses two very different magnitudes). The scale for guns per capita is guns per individual. In 1948 there were 0.36 guns per person. (That is, about one gun for every three Americans.) By 2009, there was about one gun for every American. The scale for gun homicides is per 1,000,000 persons. In 1948, there were 0.56 gun homicides per 1,000,000 persons. In 1980 the rate peaked at 1.02 homicides per 1,000,000 persons, and by 2009 the rate had fallen back to 0.5 homicides per 1,000,000 persons.

TABLE 12-8
Murder Circumstances by Relationship, 2010

| Circumstances | Total | | | | | | | | | | | | | | | | | | | |
|--------------------------------------|----------------|------------|------------|------------|------------|------------|------------|-----------|-----------|------------|--------------|--------------|------------|------------|------------|----------|-----------|--------------|--------------|---------|
| | murder victims | Husband | Wife | Mother | Father | Son | Daughter | Brother | Sister | family | Other | Acquaintance | Friend | Boyfriend | Girlfriend | Neighbor | Employee | Employer | Stranger | Unknown |
| Total | 12,996 | 110 | 603 | 107 | 135 | 256 | 197 | 88 | 19 | 287 | 2,723 | 396 | 131 | 492 | 92 | 8 | 13 | 1,615 | 5,724 | |
| Felony type total: | 1,923 | 3 | 18 | 6 | 4 | 15 | 9 | 6 | 3 | 27 | 442 | 61 | 6 | 19 | 18 | 3 | 4 | 489 | 790 | |
| Rape | 41 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 7 | 1 | 0 | 3 | 2 | 0 | 0 | 0 | 12 | 14 |
| Robbery | 780 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 9 | 141 | 16 | 0 | 1 | 8 | 3 | 3 | 289 | 309 | |
| Burglary | 80 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 14 | 3 | 0 | 0 | 14 | 0 | 0 | 0 | 31 | 27 |
| Larceny-theft | 20 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 6 | 1 | 1 | 2 | 0 | 0 | 0 | 0 | 5 | 5 |
| Motor vehicle theft | 37 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 4 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 10 | 20 |
| Arson | 35 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 1 | 18 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 11 |
| Prostitution and commercialized vice | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 1 |
| Other sex offenses | 14 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 1 | 6 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 2 |
| Narcotic drug laws | 463 | 0 | 1 | 0 | 0 | 1 | 2 | 0 | 0 | 1 | 147 | 28 | 1 | 1 | 0 | 0 | 1 | 61 | 219 | |
| Gambling | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 3 |
| Other—not specified | 441 | 3 | 14 | 6 | 4 | 13 | 4 | 5 | 1 | 11 | 96 | 9 | 2 | 10 | 8 | 0 | 0 | 76 | 179 | |
| Suspected felony type | 66 | 0 | 4 | 2 | 0 | 3 | 2 | 0 | 0 | 1 | 7 | 0 | 0 | 4 | 0 | 0 | 0 | 5 | 38 | |
| Other than felony type total: | 6,351 | 87 | 474 | 66 | 99 | 193 | 156 | 68 | 14 | 201 | 1,760 | 266 | 97 | 393 | 62 | 4 | 7 | 767 | 1,637 | |
| Romantic triangle | 90 | 1 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 52 | 4 | 1 | 9 | 2 | 0 | 0 | 10 | 8 | |
| Child killed by babysitter | 36 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 30 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | |
| Brawl due to influence of alcohol | 121 | 0 | 6 | 0 | 2 | 1 | 0 | 5 | 0 | 6 | 41 | 12 | 3 | 5 | 2 | 0 | 0 | 27 | 11 | |
| Brawl due to influence of narcotics | 58 | 1 | 1 | 1 | 0 | 5 | 1 | 1 | 0 | 0 | 25 | 3 | 3 | 3 | 1 | 0 | 0 | 7 | 6 | |
| Argument over money or property | 181 | 1 | 6 | 2 | 4 | 0 | 0 | 2 | 0 | 3 | 78 | 12 | 0 | 1 | 9 | 1 | 0 | 34 | 28 | |
| Other arguments | 3,215 | 60 | 323 | 28 | 62 | 39 | 15 | 47 | 8 | 119 | 959 | 183 | 80 | 276 | 37 | 2 | 5 | 371 | 601 | |
| Gunland killings | 176 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 43 | 8 | 0 | 1 | 0 | 0 | 0 | 34 | 89 | |
| Juvenile gang killings | 673 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 132 | 3 | 0 | 0 | 0 | 0 | 0 | 108 | 429 | |
| Institutional killings | 17 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 11 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 3 | |
| Sniper attack | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 1 |
| Other—not specified | 1,781 | 24 | 137 | 35 | 31 | 148 | 138 | 12 | 6 | 67 | 389 | 40 | 10 | 98 | 10 | 1 | 2 | 172 | 461 | |
| Unknown | 4,656 | 20 | 107 | 33 | 32 | 45 | 30 | 14 | 2 | 58 | 514 | 69 | 28 | 76 | 12 | 1 | 2 | 354 | 3,259 | |

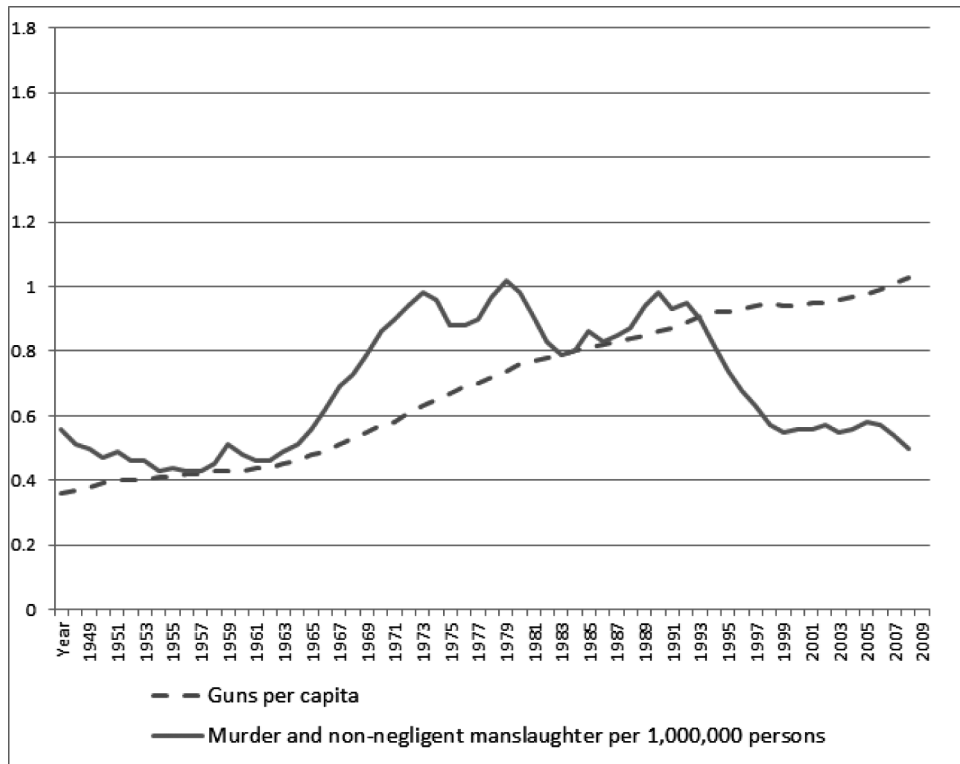
¹ Relationship is that of victim to offender.
NOTE: The relationship categories of husband and wife include both common-law and ex-spouses. The categories of mother, father, sister, brother, son, and daughter include stepparents, stepchildren, and stepsiblings. The category of acquaintance includes homosexual relationships and the composite category of other known to victim.

Source: **FBI Uniform Crime Reports.**

**TABLE 12-9
Murder Circumstances by Weapon and Other Crime, 2010**

| Circumstances | Total murder victims | | Firearms | | Handguns | | Rifles | | Shotguns | | Other guns or type not stated | | Knives or cutting instruments | | Blunt objects (clubs, hammers, fists, feet, etc.) | | Personal weapons (hands, hammers, fists, feet, etc.) | | Pushed or thrown out | | Poison | | Window | | Explosives | | Fire | | Narcotics | | Drowning | | Strangulation | | Asphyxiation | | Other | | | |
|--------------------------------------|----------------------|-------|----------|-----|----------|-------|--------|-----|----------|----|-------------------------------|----|-------------------------------|----|---------------------------------------------------|-----|------------------------------------------------------|-----|----------------------|---|--------|---|--------|---|------------|---|------|---|-----------|---|----------|---|---------------|---|--------------|---|-------|---|---|---|
| | 12,996 | 8,775 | 6,009 | 358 | 373 | 2,035 | 1,704 | 540 | 742 | 11 | 3 | 4 | 74 | 39 | 10 | 122 | 98 | 874 | | | | | | | | | | | | | | | | | | | | | | |
| Felony type total: | 1,923 | 1,391 | 976 | 53 | 60 | 302 | 190 | 84 | 61 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | |
| Rape | 41 | 0 | 0 | 0 | 0 | 0 | 7 | 7 | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Robbery | 780 | 603 | 463 | 16 | 19 | 105 | 69 | 44 | 27 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Burglary | 80 | 49 | 29 | 3 | 3 | 14 | 14 | 4 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Larceny-theft | 20 | 11 | 7 | 0 | 1 | 3 | 2 | 1 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Motor vehicle theft | 37 | 15 | 9 | 0 | 0 | 6 | 7 | 5 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Arson | 35 | 7 | 3 | 0 | 0 | 4 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Prostitution and commercialized vice | 5 | 1 | 0 | 0 | 0 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other sex offenses | 14 | 3 | 3 | 0 | 0 | 1 | 3 | 1 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Narcotic drug laws | 463 | 391 | 264 | 7 | 12 | 108 | 37 | 8 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Gambling | 7 | 6 | 5 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other—not specified | 441 | 305 | 193 | 27 | 24 | 61 | 45 | 14 | 11 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Suspected felony type | 66 | 44 | 31 | 2 | 2 | 9 | 10 | 1 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other than felony type total: | 6,351 | 3,960 | 2,842 | 187 | 204 | 727 | 1,032 | 275 | 550 | 9 | 2 | 3 | 28 | 20 | 6 | 56 | 56 | 374 | | | | | | | | | | | | | | | | | | | | | | |
| Romantic triangle | 90 | 59 | 43 | 4 | 4 | 8 | 19 | 6 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Child killed by babysitter | 36 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 2 | 23 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Brawl due to influence of alcohol | 121 | 55 | 38 | 4 | 8 | 5 | 37 | 9 | 9 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Brawl due to influence of narcotics | 58 | 29 | 24 | 1 | 1 | 3 | 6 | 6 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Argument over money or property | 181 | 112 | 79 | 11 | 10 | 12 | 34 | 10 | 17 | 0 | 1 | 34 | 10 | 17 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other arguments | 3,215 | 1,937 | 1,346 | 91 | 120 | 380 | 686 | 152 | 228 | 2 | 1 | 0 | 10 | 3 | 1 | 26 | 20 | 149 | | | | | | | | | | | | | | | | | | | | | | |
| Gangland killings | 176 | 160 | 102 | 4 | 3 | 51 | 11 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Juvenile gang killings | 673 | 624 | 529 | 10 | 7 | 78 | 31 | 4 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Institutional killings | 17 | 0 | 0 | 0 | 0 | 0 | 3 | 2 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Sniper attack | 3 | 3 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Other—not specified | 1,781 | 980 | 680 | 59 | 51 | 190 | 205 | 83 | 238 | 6 | 0 | 3 | 16 | 8 | 5 | 182 | 30 | 182 | | | | | | | | | | | | | | | | | | | | | | |
| Unknown | 4,656 | 3,380 | 2,160 | 116 | 107 | 997 | 472 | 180 | 148 | 2 | 1 | 1 | 15 | 7 | 3 | 31 | 25 | 391 | | | | | | | | | | | | | | | | | | | | | | |

Source: FBI Uniform Crime Reports.



Gun homicide rate versus the number of guns per capita, 1948-2009

2. Aggravated Assaults and Robberies

Much of the discussion about the harms of guns involves homicides. But homicides, obviously, are not the only costs that firearms impose. Nonfatal assaults with guns occur at a far higher rate than firearm murders. For 2010, the FBI reported an estimated 778,901 aggravated assaults nationwide. This was a decline of 4.1 percent from 2009 and 14.3 percent when compared with the estimate for 2001. When measured per 100,000 inhabitants, the 2010 rate of aggravated assaults was 252.3 offenses per 100,000 inhabitants. This was a drop of 20.8 percent from 2001.

Of the aggravated assault offenses in 2010 for which law enforcement agencies provided expanded data, 27.4 percent were committed with personal weapons such as hands, fists, or feet. 20.6 percent of aggravated assaults were committed with firearms, and 19.0 percent were committed with knives or cutting instruments. The remaining 33.1 percent of aggravated assaults were committed with other weapons.

In addition to aggravated assaults with firearms, there were approximately 127,521 robberies using firearms in 2010. Federal Bureau of Investigation, Uniform Crime Reports, Aggravated Assault.

Table 12-10 shows the rate of aggravated assault by state and weapon type. Table 12-11 shows the rate of robbery by state and weapon type.

TABLE 12-10

Aggravated Assault
by State, Types of Weapons, 2010

| <i>State</i> | <i>Total aggravated assaults¹</i> | <i>Firearms</i> | <i>Knives or cutting instruments</i> | <i>Other weapons</i> | <i>Personal weapons</i> | <i>Agency count</i> | <i>Population</i> |
|-----------------------|----------------------------------------------|-----------------|--------------------------------------|----------------------|-------------------------|---------------------|-------------------|
| Alabama | 5,700 | 1,529 | 912 | 1,273 | 1,986 | 303 | 2,573,716 |
| Alaska | 3,309 | 543 | 780 | 795 | 1,191 | 35 | 694,439 |
| Arizona | 15,337 | 3,618 | 2,604 | 4,577 | 4,538 | 96 | 6,084,911 |
| Arkansas | 10,044 | 2,548 | 1,522 | 2,163 | 3,811 | 199 | 2,498,547 |
| California | 95,678 | 16,937 | 15,178 | 33,074 | 30,489 | 729 | 37,180,162 |
| Colorado | 9,535 | 1,936 | 2,323 | 2,659 | 2,617 | 171 | 4,579,863 |
| Connecticut | 5,703 | 792 | 1,250 | 2,026 | 1,635 | 99 | 3,431,851 |
| Delaware | 3,376 | 824 | 763 | 1,400 | 389 | 53 | 897,934 |
| District of Columbia | 3,238 | 606 | 944 | 1,233 | 455 | 1 | 601,723 |
| Florida | 69,482 | 13,295 | 12,385 | 25,994 | 17,808 | 663 | 18,791,299 |
| Georgia | 20,287 | 5,160 | 3,580 | 5,553 | 5,994 | 458 | 7,659,917 |
| Hawaii | 1,953 | 170 | 421 | 642 | 720 | 3 | 1,207,055 |
| Idaho | 2,556 | 361 | 472 | 847 | 876 | 102 | 1,466,441 |
| Illinois ² | 1,646 | 805 | 219 | 311 | 311 | 1 | 156,180 |
| Indiana | 5,496 | 514 | 662 | 1,171 | 3,149 | 286 | 4,464,937 |
| Iowa | 6,010 | 566 | 1,143 | 1,369 | 2,932 | 188 | 2,719,028 |
| Kansas | 7,354 | 2,016 | 1,545 | 2,274 | 1,519 | 236 | 2,641,509 |
| Kentucky | 5,056 | 1,060 | 869 | 1,976 | 1,151 | 330 | 4,066,139 |
| Louisiana | 14,895 | 3,501 | 2,409 | 3,742 | 5,243 | 172 | 3,916,237 |
| Maine | 794 | 48 | 157 | 235 | 354 | 167 | 1,328,361 |
| Maryland | 12,754 | 1,761 | 2,872 | 4,610 | 3,511 | 153 | 4,166,837 |
| Massachusetts | 20,904 | 2,043 | 4,770 | 10,749 | 3,342 | 320 | 6,135,892 |
| Michigan | 30,673 | 8,231 | 6,005 | 10,926 | 5,511 | 515 | 9,294,572 |
| Minnesota | 6,606 | 1,058 | 1,307 | 1,876 | 2,365 | 305 | 4,764,748 |

| State | Total aggravated assaults ¹ | | | | | | | Population |
|----------------|----------------------------------------|-------------------------------|---------------|------------------|--------------|--|--|------------|
| | Firearms | Knives or cutting instruments | Other weapons | Personal weapons | Agency count | | | |
| Mississippi | 888 | 521 | 781 | 720 | 121 | | | 2,040,999 |
| Missouri | 5,368 | 2,407 | 4,750 | 6,151 | 578 | | | 5,819,912 |
| Montana | 278 | 256 | 532 | 715 | 96 | | | 839,025 |
| Nebraska | 531 | 505 | 1,378 | 816 | 211 | | | 1,669,683 |
| Nevada | 1,554 | 1,893 | 5,192 | 1,697 | 40 | | | 2,460,734 |
| New Hampshire | 202 | 401 | 328 | 289 | 150 | | | 1,153,610 |
| New Jersey | 2,101 | 3,113 | 4,320 | 4,230 | 578 | | | 8,713,262 |
| New Mexico | 1,669 | 1,474 | 2,779 | 2,656 | 88 | | | 1,873,990 |
| New York | 2,311 | 5,182 | 4,675 | 4,163 | 533 | | | 10,706,971 |
| North Carolina | 5,677 | 3,911 | 5,270 | 4,229 | 308 | | | 8,077,998 |
| North Dakota | 21 | 105 | 228 | 780 | 87 | | | 633,347 |
| Ohio | 3,511 | 2,687 | 4,463 | 3,400 | 444 | | | 9,605,351 |
| Oklahoma | 2,347 | 2,016 | 4,416 | 3,415 | 302 | | | 3,610,830 |
| Oregon | 614 | 1,033 | 1,894 | 1,958 | 140 | | | 3,347,382 |
| Pennsylvania | 4,984 | 3,841 | 6,324 | 9,996 | 1,264 | | | 12,290,455 |
| Rhode Island | 302 | 426 | 676 | 192 | 49 | | | 1,052,567 |
| South Carolina | 5,274 | 3,663 | 5,614 | 5,636 | 407 | | | 4,393,517 |
| South Dakota | 144 | 378 | 353 | 223 | 107 | | | 696,093 |
| Tennessee | 8,231 | 6,137 | 10,644 | 2,628 | 457 | | | 6,136,858 |
| Texas | 15,544 | 15,836 | 25,244 | 14,756 | 1,020 | | | 25,077,044 |
| Utah | 603 | 954 | 1,148 | 825 | 119 | | | 2,705,776 |
| Vermont | 49 | 84 | 72 | 234 | 67 | | | 524,847 |
| Virginia | 1,872 | 2,189 | 3,011 | 2,400 | 354 | | | 7,951,616 |
| Washington | 1,678 | 2,180 | 3,824 | 4,566 | 254 | | | 6,684,514 |
| West Virginia | 339 | 269 | 402 | 702 | 127 | | | 830,296 |
| Wisconsin | 1,764 | 800 | 1,564 | 3,834 | 342 | | | 5,262,535 |
| Wyoming | 79 | 156 | 263 | 349 | 65 | | | 559,126 |

¹The number of aggravated assaults from agencies that submitted 12 months of data in 2010 for which breakdowns by type of weapon were included.

²Limited data were received.

TABLE 12-11
Robbery by State, Types of Weapons, 2010

| State | Total robberies ¹ | Knives or cutting instruments | | | | Other weapons | Strong-arm | Agency count | Population |
|-----------------------|------------------------------|-------------------------------|-------------------------------|---------------|------------|---------------|------------|--------------|------------|
| | | Firearms | Knives or cutting instruments | Other weapons | Strong-arm | | | | |
| Alabama | 1,511 | 817 | 91 | 113 | 490 | 303 | 2,573,716 | | |
| Alaska | 584 | 153 | 53 | 55 | 323 | 35 | 694,439 | | |
| Arizona | 6,864 | 3,036 | 645 | 599 | 2,584 | 96 | 6,084,911 | | |
| Arkansas | 2,283 | 1,067 | 137 | 227 | 852 | 199 | 2,498,547 | | |
| California | 58,035 | 18,053 | 5,044 | 5,357 | 29,581 | 729 | 37,180,162 | | |
| Colorado | 3,068 | 1,119 | 308 | 383 | 1,258 | 171 | 4,579,863 | | |
| Connecticut | 3,483 | 1,164 | 377 | 297 | 1,645 | 99 | 3,431,851 | | |
| Delaware | 1,829 | 839 | 146 | 136 | 708 | 53 | 897,934 | | |
| District of Columbia | 3,914 | 1,563 | 246 | 209 | 1,896 | 1 | 601,723 | | |
| Florida | 26,071 | 11,105 | 1,730 | 2,206 | 11,030 | 663 | 18,791,299 | | |
| Georgia | 10,551 | 6,192 | 474 | 876 | 3,009 | 458 | 7,659,917 | | |
| Hawaii | 988 | 97 | 80 | 92 | 719 | 3 | 1,207,055 | | |
| Idaho | 213 | 61 | 26 | 25 | 101 | 102 | 1,466,441 | | |
| Illinois ² | 495 | 240 | 20 | 60 | 175 | 1 | 156,180 | | |
| Indiana | 2,665 | 1,122 | 199 | 311 | 1,033 | 286 | 4,464,937 | | |
| Iowa | 995 | 274 | 95 | 104 | 522 | 188 | 2,719,028 | | |
| Kansas | 1,511 | 695 | 120 | 161 | 535 | 236 | 2,641,509 | | |
| Kentucky | 3,673 | 1,716 | 301 | 323 | 1,333 | 330 | 4,066,139 | | |
| Louisiana | 4,067 | 2,121 | 248 | 300 | 1,398 | 172 | 3,916,237 | | |
| Maine | 414 | 75 | 70 | 52 | 217 | 167 | 1,328,361 | | |
| Maryland | 6,809 | 3,266 | 552 | 342 | 2,649 | 153 | 4,166,837 | | |
| Massachusetts | 6,712 | 1,626 | 1,298 | 880 | 2,908 | 320 | 6,135,892 | | |
| Michigan | 11,238 | 5,523 | 524 | 909 | 4,282 | 515 | 9,294,572 | | |
| Minnesota | 3,088 | 1,011 | 234 | 399 | 1,444 | 305 | 4,764,748 | | |
| Mississippi | 2,278 | 1,422 | 97 | 190 | 569 | 121 | 2,040,999 | | |
| Missouri | 6,029 | 3,180 | 322 | 382 | 2,145 | 578 | 5,819,912 | | |
| Montana | 122 | 20 | 16 | 41 | 45 | 96 | 839,025 | | |

| <i>State</i> | <i>Total robberies¹</i> | <i>Knives or cutting instruments</i> | | | | | <i>Agency count</i> | <i>Population</i> |
|----------------|------------------------------------|--------------------------------------|----------------------|-------------------|---------------------|-------------------|---------------------|-------------------|
| | | <i>Firearms</i> | <i>Other weapons</i> | <i>Strong-arm</i> | <i>Agency count</i> | <i>Population</i> | | |
| Nebraska | 1,018 | 439 | 70 | 433 | 211 | 1,669,683 | | |
| Nevada | 4,844 | 1,722 | 450 | 2,245 | 40 | 2,460,734 | | |
| New Hampshire | 427 | 94 | 50 | 212 | 150 | 1,153,610 | | |
| New Jersey | 11,720 | 3,944 | 964 | 6,035 | 578 | 8,713,262 | | |
| New Mexico | 1,581 | 626 | 229 | 586 | 88 | 1,873,990 | | |
| New York | 8,770 | 2,540 | 1,004 | 4,256 | 533 | 10,706,971 | | |
| North Carolina | 8,540 | 4,419 | 551 | 2,801 | 308 | 8,077,998 | | |
| North Dakota | 89 | 12 | 5 | 62 | 87 | 633,347 | | |
| Ohio | 15,644 | 6,479 | 738 | 6,936 | 444 | 9,605,351 | | |
| Oklahoma | 3,293 | 1,503 | 268 | 1,260 | 302 | 3,610,830 | | |
| Oregon | 2,237 | 580 | 236 | 1,208 | 140 | 3,347,382 | | |
| Pennsylvania | 16,194 | 6,574 | 1,111 | 7,487 | 1,264 | 12,290,455 | | |
| Rhode Island | 780 | 198 | 78 | 398 | 49 | 1,052,567 | | |
| South Carolina | 4,780 | 2,656 | 313 | 1,423 | 407 | 4,393,517 | | |
| South Dakota | 147 | 18 | 24 | 78 | 107 | 696,093 | | |
| Tennessee | 8,309 | 4,682 | 598 | 2,318 | 457 | 6,136,858 | | |
| Texas | 32,809 | 16,280 | 2,716 | 11,068 | 1,020 | 25,077,044 | | |
| Utah | 1,262 | 349 | 173 | 608 | 119 | 2,705,776 | | |
| Vermont | 54 | 13 | 14 | 20 | 67 | 524,847 | | |
| Virginia | 5,651 | 2,955 | 365 | 1,779 | 354 | 7,951,616 | | |
| Washington | 5,906 | 1,446 | 537 | 3,340 | 254 | 6,684,514 | | |
| West Virginia | 235 | 66 | 32 | 103 | 127 | 830,296 | | |
| Wisconsin | 4,453 | 2,344 | 215 | 1,466 | 342 | 5,262,535 | | |
| Wyoming | 76 | 25 | 10 | 33 | 65 | 559,126 | | |

¹The number of robberies from agencies that submitted 12 months of data in 2010 for which breakdowns by type of weapon were included.

²Limited data were received.

NOTES & QUESTIONS

1. Do the data on nonhomicide firearm crime change your assessment of the costs and benefits of private firearms ownership? Which way do the data cut? For example, if you believe that legal restrictions make it difficult for criminal aggressors to obtain firearms, can you make an argument for giving trustworthy people access to guns in order to thwart attacks by criminals likely to be armed with inferior tools? If you decide to allow trustworthy people access to guns for defense against lesser armed criminals, what unintended consequences might result?
2. In Tables 12-8 and 12-9 on Murder Circumstances, note the large number of homicides that result from “Other arguments.” This includes domestic arguments, such as fights between a husband and wife. It also includes arguments among criminals, who, like everyone else, have acquaintances and colleagues with whom they sometimes argue.
3. Does the large number of murders and other crimes perpetrated with knives and other cutting instruments suggest a need for additional restrictions on their ownership or purchase? Would you support laws requiring that all new knives be made less dangerous, such as by rounding off the sharp points? To answer, do you want more data about types of knives used in homicides and other crimes? For additional discussion, See David B. Kopel, Clayton E. Cramer & Joseph Olson, *Knives and the Second Amendment*, 47 U.Mich.J.L. Reform 167, 181-84 (2013).

G. How Do Criminals Obtain Guns?

Criminal use of firearms often prompts the question, *where did the offender get the gun?* The worry about illegal guns purchased from retail outlets in one state and trafficked illegally to states with more stringent limits on retail sales has commanded much public attention. Indeed, restricting interstate transfers was a prime objective of the Gun Control Act of 1968.

The total number of guns “run” from one state to another is unknown. An incomplete indication comes from FBI trace data. One limitation of the trace data (as discussed in Section 12.A above) is that the guns selected by law enforcement for submission to the tracing system are predominately of recent manufacture. This reflects the fact that older guns typically cannot be traced effectively. There are two reasons for this. First, for guns manufactured before 1968 there may be no serial number records to facilitate a trace. Second, even many post-1968 guns will be several decades old and are likely to have had multiple private owners; therefore, the current owner cannot be effectively traced from Federal Firearms Licensee (FFL) sales data. For more on tracing, see Section A of this chapter.

There are at least three sources of guns that end up in crimes. One source is guns purchased lawfully from a retail seller, such as a gun shop or sporting goods store. A second source is guns acquired from secondary sales between private

parties. Survey estimates suggest that secondary sales account for 30 to 40 percent of gun transactions per year. These sales between private parties who are residents of the same state are legal under federal law so long as (1) on the seller’s part, she legally possesses the gun and has no reason to believe that the buyer is not disqualified from purchasing, and (2) on the buyer’s part, she is not disqualified from possessing firearms and has no reason to believe the gun is stolen. Federal law does not require formal background checks or recordkeeping for private sales of this kind. Some states, such as Maryland, place additional restrictions on private transfers. *See* Chapter 8.D.3.

A third source of crime guns is theft. Guns are stolen from manufacturers, importers, distributors, licensed dealers, private citizens, and even from police and other government agents. National Research Council, *supra*, at 74. The number of stolen guns cannot be known for sure, and estimates of annual gun thefts vary. Using data from 1987 through 1992, the National Crime Victim Survey estimated 340,700 stolen guns per year. National Research Council, *Firearms and Violence, supra*, at 74. Another study estimated 500,000 stolen guns per year. Philip J. Cook et al., *Regulating Gun Markets*, 86 *J. Crim. L. & Criminology* 59 (1995).

One of the most comprehensive and recent studies of how criminals acquire crime guns was conducted by Gary Kleck. The following is an abridged version of Kleck’s assessment. The full version can be found online at <http://www.uclalawreview.org/pdf/56-5-6.pdf>.

Gary Kleck & Shun-Yung Kevin Wang,
The Myth of Big-Time Gun Trafficking and the Overinterpretation of Gun Tracing Data,
 56 *UCLA L. Rev.* 123 (2009)

In recent years the gun control movement has increasingly shifted its efforts from lobbying for new gun-control legislation to facilitating lawsuits against the gun industry, especially those based on claims of negligent distribution of firearms. These lawsuits are based on the premise that organized gun trafficking, much of it involving corrupt or negligent licensed dealers, plays an important role in supplying guns to criminals. This paper first assesses the extant evidence bearing on this claim, as well as on underlying assertions as to how one can tell whether a crime gun has been trafficked or whether a licensed dealer is involved in trafficking. Law enforcement evidence indicates that high-volume trafficking is extremely unusual, and that average “traffickers” handle fewer than a dozen guns. The aggregate volume of guns moved by known traffickers is negligible compared to even low estimates of the number of guns stolen.

City-level data on crime guns recovered in fifty large U.S. cities in 2000 are then analyzed to investigate (a) whether supposed indicators of gun trafficking are valid, (b) what factors affect trafficking levels, (c) the impact of gun trafficking on gun possession levels among criminals, and (d) the impact of gun trafficking on crime rates. The findings suggest that most supposed indicators that a crime gun has been trafficked have little validity. One possible exception is whether a gun has an obliterated serial number (OSN). Using the share of crime guns with an OSN as a city-level indicator of the prevalence of gun

trafficking, the analysis showed that trafficking is more common where guns are scarcer. The analysis also showed that laws regulating the purchase of guns, including one-gun-a-month laws specifically aimed at trafficking, show no effect on trafficking activity. Finally, the research indicates that trafficking levels show no measurable effect on gun possession among criminals (measured as the share of homicides committed with guns), and generally show no effect on violent-crime rates. . . .

I. GUN TRAFFICKING AND THE FLOW OF GUNS TO CRIMINALS

The oft-stated assertion that gun traffickers supply many guns to criminals is trivial in the absence of any precise definition of a “gun trafficker.” As used by ATF, the term refers to anyone who has ever unlawfully sold at least one gun. Similarly, Anthony Braga and Glenn Pierce use the term “gun trafficking enterprises” to encompass operations that have unlawfully sold even a single gun. The claim that there are many gun traffickers in this legalistic sense is unquestionably true, but largely devoid of policy implications. There is no doubt that unlawful selling of guns is commonplace in America, since gun theft is common, and most stolen guns are sold rather than kept by the thief. Every thief who sells some of the guns he steals is a trafficker in this legalistic sense, even if he sells no more than one gun a year. James Wright and Peter Rossi estimate, from the sample of prisoners they interviewed, that felons who had ever stolen a gun had stolen an average of about thirty-nine guns in their lives—fewer than four per year of their active criminal careers. As will be shown later, even the traffickers investigated by ATF sell, on average, fewer than fifteen guns over the entire course of their documented careers. Stopping even thousands of such occasional traffickers is unlikely to have much effect on the flow of guns to criminals, both because the share of “crime guns” that any one of these criminals is responsible for is so small, and because such small-scale operators are so easily replaced. . . .

The issue of volume is crucial—the greater the number of guns sold by a trafficker, the more likely it is that stopping his activities will reduce the availability of guns to criminals. In this Article, we will use the term “high-volume gun trafficker” to denote a person who unlawfully and persistently sells substantial numbers of guns for profit. Any numerical threshold would be arbitrary—the underlying reality is that the more that flows of guns to criminals are concentrated in relatively few high-volume trafficking channels, the more impact one could realistically expect from a strategy of disrupting illicit suppliers. If pressed to state a number, however, we would regard a person who sold one hundred or more guns annually as a “large-scale” trafficker.

CONTRASTING MODELS OF THE MOVEMENT OF GUNS TO CRIMINALS . . .

ATF often states in its publications that gun traffickers supply a “significant” share of guns to criminals, without defining what “significant” really means. Many scholars have likewise claimed that criminals regularly involved

in gun trafficking play an “important” role in channeling guns to criminals. These scholars have presented an image of relatively organized gun markets with significant numbers of high-volume traffickers, often operating in concert with corrupt or irresponsible licensed dealers who provide the traffickers with their supply of guns. Typical of such scholars, Philip Cook and Anthony Braga concede that diffuse (low-volume) sources channel many guns to criminals, but nevertheless insist that point sources (high-volume traffickers) are important in supplying guns to criminals.

This concentrated gun trafficking model holds that a significant share of guns are diverted from lawful commerce into the hands of criminals by the illegal activities of corrupt or negligent federal firearms licensees (FFLs) and unlicensed, criminal gun traffickers. . . . Many traffickers, according to this model, purchase guns—especially handguns—in large batches from corrupt or irresponsible dealers, especially those operating in states with relatively weak controls over gun selling and buying. This model is preferred by advocates of supply-side gun control strategies, since it promises significant reductions in criminal gun possession if high-volume traffickers or corrupt dealers can be stopped.

The case for the concentrated model relies heavily on vague claims about the significant amount of illegal diversion of guns by gun traffickers (very broadly defined) operating in illicit gun markets. Pierce and his colleagues provide a good example: “Our results indicate that a noteworthy percentage of the guns recovered in crime come rather directly from licensed dealers; in effect criminals are being supplied by dedicated ‘pipelines’ as well as the extant pool of guns.” Nothing in the authors’ results points to even an approximation of what this noteworthy percentage might be. The only percentages the authors cite pertain to the share of crime guns that possess various ambiguous characteristics believed to be indicators of trafficking, such as rapid movement of guns from first retail sale to recovery by police in connection with a crime. The authors report that “nearly a third” of their traced guns had two or more of ten purported indicators of gun trafficking, and hint that guns with this many indicators were likely to have been trafficked, but provide no evidence of this. They do not explain why having just two of these ambiguous indicators should be regarded as strong evidence that a gun was trafficked. None of their findings suggest that even 1 percent of crime guns had as many as half of the ten indicators that they considered . . .

Advocates of the concentrated gun trafficking model have never stated, in even the most approximate terms, what they mean by a significant share of crime guns being trafficked. They have never explicitly claimed, for example, that even as much as a tenth of crime guns are trafficked. They only assert that high-volume point sources are important in supplying guns to criminals, and they make it clear that they believe the trafficked share is large enough to justify the investment of more law enforcement resources focused on high-risk retail dealers and unlicensed traffickers.

The contrasting dispersed-gun-flow model assumes a highly dispersed market in which criminals obtain guns from a wide variety of largely interchangeable nontrafficker sources. In this view, criminals most commonly (1) obtain guns (directly or indirectly) as a by-product of thefts, primarily residential burglaries, that were not committed specifically for the purpose of obtaining guns; (2) buy guns one at a time from friends and relatives who neither regularly sell

guns nor act as straw purchasers; or (3) (if they have no criminal convictions) lawfully purchase guns from licensed dealers, to whom they are indistinguishable from noncriminal buyers. According to this model, high-volume or persistent traffickers are rare, and in the aggregate are of little significance in the arming of criminals. Those who sell guns illegally are not professionals, specialists, or part of criminal organizations devoted to gun trafficking, and they do not sell guns persistently or in large numbers. Illicit gun sellers are instead more likely to be thieves who sell a few guns (typically fewer than a half-dozen per year) along with all the other saleable property they steal, drug dealers who occasionally sell guns as a sideline to their drug business, or friends and relatives of the criminal recipient who do not regularly sell guns.

Thus, while many crime guns are supplied by black market or street sources, almost all of these are casual low-volume suppliers rather than high-volume point sources. Those holding to this model recognize that some criminals acquire guns legally from licensed dealers through legal purchases (because the criminals are not convicted felons, and do not show up as hits in background checks), while others may use straw purchasers to illegally buy guns from licensed retailers who have no way of recognizing the putative buyers as straws. But the model denies that either intentional criminal conduct or carelessness on the part of licensed retailers contributes significantly to such diversion of guns to criminals, or that such acquisitions are typically part of repeated efforts by traffickers to acquire guns to resell for profit. Instead, the dispersed flow model implies that people who act as straws for ineligible buyers do so only once or very rarely, rather than repeatedly on behalf of traffickers intent on accumulating a supply of guns to sell for profit.

William Vizzard, a political scientist who also served for twenty-seven years as an ATF agent, summarized his view of gun trafficking:

Nothing in the available studies supports an assumption of a well-structured illicit market in firearms. Transactions appear to be casual and idiosyncratic. My own experience, and that of most other agents I have interviewed, supports an assumption that the majority of sources is very dispersed and casual, and regular traffickers in firearms to criminals are few.

Vizzard attributed the rarity of “regular traffickers in firearms” to the huge reservoir of guns in the United States, and the concomitant fact that criminals can easily draw on many different sources for guns. The existence of these conditions suggests that “there is little economic incentive for persons to specialize in the illegal gun trade.” His discussion, however, leaves open the possibility that there could be such specialists in a few exceptional places, such as New York City, where gun laws are exceptionally restrictive and alternative sources of guns are unusually limited. It further leaves open the possibility that some criminals, such as drug dealers, might illegally sell a fairly large number of guns even though they do not specialize in the activity.

THE SCALE OF THE TOTAL FLOW OF GUNS TO CRIMINALS

It is impossible to meaningfully judge whether the volume of guns moved into criminal hands through a given channel is significant without at least a

rough sense of the total volume of guns acquired by criminals. A conservative estimate of the number of guns acquired by criminals can be obtained by beginning with estimates of the number of guns stolen each year, and then extrapolating that number to the total number of guns obtained by all methods, based on the share of their guns that criminals say they obtain by theft. The best available estimate of the number of annual gun theft incidents comes from the National Crime Victimization Survey (NCVS), which collects data on thefts, including incidents not reported to the police. The survey indicated that in the calendar year 2000 there were 174,680 gun theft incidents that people were willing to report to its interviewers, while the figure for 1993—a higher crime year—was 291,820. These estimates are almost certainly conservative because people are reluctant to report thefts of guns that they possess illegally, or whose legal status they are unsure of. The NCVS does not establish the number of guns stolen per incident. The largest national survey to estimate this parameter found that there were 2.2 guns stolen per gun theft incident. Thus, a conservative estimate of the number of guns stolen in 2000 would be 384,296, while the figure for 1993 would be 642,000. The NCVS's data indicate that about 53 percent of stolen guns are handguns, and thus imply that at least 203,677 handguns were stolen in 2000, and 340,260 in 1993.

The most extensive questioning of criminals on the sources of their guns indicated that felons had personally stolen 32 percent of their most recently acquired handguns. This implies that the total number of handguns acquired by criminals is about 3.125 times larger than the number of handguns stolen, and thus that about 636,490 handguns were acquired by criminals by all methods in 2000, and about 1.1 million in 1993. If the percent of all types of guns acquired by theft was the same as for handguns, these figures would imply that criminals acquired about 1.2 million guns of all types [in] 2000 and about 2.0 million in 1993. On the other hand, if one accepts at face value, as some scholars apparently do, the results of a 1997 federal survey of prison inmates who used or possessed a firearm during their current offense, which indicated that only 10 percent of criminals' handguns were acquired by theft, then the total number of guns acquired by criminals each year would necessarily be ten times as large as the number they stole—about 3.8 million in 2000 and 6.4 million in 1993. We regard such huge figures as implausible, and believe it is unlikely that inmates were fully reporting their gun theft activity to the federal government interviewers. If the ten-percent figure is a product of underreporting, then the theft share would be over ten percent, and the total number acquired by all means would be less than ten times the number stolen. In any case, even conservative estimates indicate that the number of handguns annually obtained by criminals by all methods exceeds 600,000 even in low-crime years. And since handguns claim only half of the guns obtained by criminals via theft, if the same applies to all methods of acquisition, criminals obtain, by all methods, at least 1.2 million guns of all types each year.

**LAW ENFORCEMENT EVIDENCE ON THE PREVALENCE
AND VOLUME OF GUN TRAFFICKING**

The most direct, albeit limited, evidence on the extent of significant organized gun trafficking is law enforcement information gathered in

connection with the investigation of traffickers. As with many other types of criminals, much of what we know about gun traffickers is based on those who are arrested. Christopher Koper and Peter Reuter uncritically cite the assessment of unnamed federal officials that a gun running operation that handled 116 guns was “typical of the size of most gun running operations.” However, traffickers handling this many guns are extremely rare among those caught by law enforcement, and a more typical volume would be fifteen or fewer guns sold per year. Although ATF places a high priority on catching high-volume traffickers, the agency was able to identify, over a two-and-a-half-year period (1996-1998), just thirty-seven trafficking operations in the United States in which over 250 guns were trafficked. Thus, on average, there were fewer than fifteen high-volume trafficking operations uncovered by ATF per year in the entire nation. Further, ATF uncovered only 104 trafficking operations that handled over a hundred guns, or about forty-two such operations per year. Thus, by any reasonable standard, ATF rarely uncovers large-scale gun trafficking operations.

It is possible, however, that local law enforcement agencies uncover many additional high-volume dealers, especially in places where political leaders prioritize going after gun trafficking. If big-time traffickers operate anywhere, one would expect to find them in New York City, given its huge size (and correspondingly large number of potential customers), its low level of legal handgun ownership, and its strict gun laws, which reduce the availability of legal handguns. Assuming that law enforcement agencies like to publicize their major successes, higher-volume trafficking cases should be reported in local newspapers once investigations are complete. However, an examination of all New York City daily papers over a 17-year period from 1990 through 2006 uncovered just six cases of trafficking operations purportedly involving a hundred or more guns, or about one such operation reported every three years in the nation’s largest city. Only two of these operations were alleged to have trafficked over 140 guns.

Likewise, in Chicago, which like New York City bans the private possession of handguns, the police catch virtually no high-volume gun traffickers. . . .

These few high-volume operations are clearly the well-publicized exceptions, since average trafficking operations involve far fewer guns. In 2000, ATF initiated 1,319 trafficking investigations and estimated that the targeted operations had trafficked a total of 19,777 firearms, for an average of just fifteen guns per trafficking operation. Arithmetic means, however, are misleading, with highly skewed distributions such as these in which a handful of operations handling extremely large numbers of guns drive up the average. It follows that the median number of guns trafficked per operation is less than half the average, so a typical operation (one with a median volume) investigated in 2000 probably handled fewer than seven guns. Further, the average gun volume among all trafficking operations, including those not important enough to merit ATF investigation, would almost certainly be lower still. Although investigators may underestimate the number of the guns trafficked, the number that has been documented is clearly small. It also should be kept in mind that traffickers sell to virtually anyone with money, not just criminals, so the number of guns going to criminals is necessarily smaller than the total number trafficked.

What share of all guns acquired by criminals is supplied, then, by known traffickers? As noted above, the total number of guns known to have been trafficked by all traffickers investigated by ATF in 2000 was 19,777. We have

estimated that in that same year, criminals acquired a total of at least 1.2 million guns. Thus, even if one unrealistically assumed that all of the 19,777 guns known to have been trafficked by ATF-investigated traffickers were sold to criminals, and if all of these were trafficked in a single year, then at most this comprised 1.6 percent of the guns acquired by criminals in that year. More realistically, if traffickers sell indiscriminately to whoever will pay, and if they therefore sold only half of their guns to criminals, then these trafficked guns would comprise less than 1 percent of the guns acquired by criminals.

There are, however, traffickers unknown to police, and there may even be high-volume traffickers who are never caught. Law enforcement evidence, the best evidence available, cannot prove a negative, such as the assertion that virtually no high-volume traffickers operate. One can only say that the law enforcement agencies charged with uncovering such trafficking have discovered few large-scale operations, have not generated affirmative evidence of widespread high-volume trafficking, and have not supplied evidence that would support an affirmative claim that traffickers supply more than a tiny share of criminals' guns.

THE INVOLVEMENT OF LICENSED DEALERS IN TRAFFICKING

Do corrupt or negligent FFLs contribute significantly to the flow of illicit guns to criminals? . . .

Despite the relative ease of doing so, ATF discovered so little serious misconduct among FFLs that in all of fiscal year 1999 they revoked the licenses of only 20 FFLs in the entire United States — less than a fiftieth of one percent of the 103,942 total FFLs operating at that time. Even when ATF selectively focused extensive compliance inspections on 1,700 dealers thought to be more likely to be involved in gun trafficking because they displayed “a range of indicators of potential firearms trafficking,” few of these were found to be involved in misconduct serious enough to merit revocation of their licenses. Of the 1,700 suspect dealers inspected in 1998, ATF revoked the licenses of just thirteen, in addition to seventy-five who surrendered their licenses, were placed out of business, or were denied renewal of their licenses.

Conversely, among 1,530 trafficking operations investigated by ATF during 1996-1998, only 8.7 percent involved trafficking by any FFLs. Thus, few FFLs are involved in trafficking, and few trafficking operations involve FFLs. . . . ATF cautions that their investigations “do not necessarily reflect typical criminal diversions of firearms.” And this percentage almost certainly overstates the FFL share of trafficked guns given the greater ease of detecting criminal activity within a group that Cook and Braga rightly characterize as “vulnerable to ATF’s capacities for regulation and enforcement.”

ATF’s caveat is more than merely pro forma — the agency clearly focuses disproportionately on more vulnerable investigative targets. To illustrate, 13.9 percent of ATF’s 1996-1998 trafficking investigations were aimed at “gun shows and flea markets,” even though the Census Bureau’s 1997 Survey of State Prison inmates found that only 1.7 percent of gun criminals had obtained their crime guns from a gun show or a flea market. ATF was clearly not focusing its

investigations on gun show trafficking because this activity supplies a large share of crime guns. Rather, because gun shows are advertised, legal events, they may simply be easier to investigate than trafficking rings that operate secretly.

THE SIGNIFICANCE OF THE PRICES CRIMINALS PAY FOR GUNS

Data on prices paid for illegal guns also strongly suggest that FFL involvement in trafficking, whether knowing or negligent, is rare. Traffickers who buy guns, new or used, from FFLs at retail prices can only make a profit if they sell the guns at prices substantially higher than retail price. Further, given the need to pay straw purchasers for their services, when employed, and to cover transportation and other expenses, it is unlikely that traffickers could begin to turn a profit unless they sold guns for amounts well above — perhaps at least double — the retail price. Thus, if many criminals obtain guns through the efforts of traffickers working in this way, we should find that a large share of criminals buy guns at prices well above retail price. Interviews with criminals, however, indicate that the vast majority instead generally pay less than retail price for their guns. Joseph Sheley and James Wright found that 65 percent of inmates of juvenile correctional facilities and 74 percent of high school students paid less than \$100 for their most recently acquired handgun, at a time (about 1990) when only a handful of handguns had a retail price under \$100. Similarly, Wright and Rossi concluded, based on interviews with adult inmates, that even though criminals often possessed higher quality guns, they typically paid much less than retail, because “prices in the informal, gray, and black markets are heavily discounted, in all likelihood because of the predominance of stolen weapons in these markets.” Thus, even though virtually all guns are sold at or near full retail price when they are new, by the time their ultimate criminal consumers acquire the guns, they generally are sold for much less. This evidence strongly suggests that traffickers were not responsible for moving the retail-priced guns from licensed dealers to criminals.

Occasional claims that criminals pay substantially above-retail prices for guns are supported only by isolated, unsubstantiated anecdotes, typically fed to uncritical reporters by ATF agents. For example, Philip Cook and his colleagues cite a newspaper article in which an ATF agent was quoted as asserting that for illegal handguns purchased in New York City there was a markup of “five times or more over the price in Virginia.” These authors likewise cite unsubstantiated claims by journalists that handguns purchased for \$50 in Ohio were sold for \$250 in Philadelphia. The evidence for such journalistic claims usually turns out to be unverified anecdotes supplied by ATF agents. . . .

A rough estimate of the retail prices of handguns used by criminals in [New York, D.C., and Chicago] can be obtained from published ATF data on guns recovered and submitted for tracing. The ten most frequently recovered types of guns, classified by manufacturer, caliber, and general gun type (revolver, semi automatic pistol, and so forth) are listed in ATF reports. We looked up the suggested retail price of the least expensive model within each category (for example, the least expensive Ruger nine millimeter semiautomatic pistol) in the 1997 edition of *Gun Digest*, and conservatively assumed that this

was the average retail price of guns in each category. We weighted these prices by the number of crime guns in that category that were recovered and traced, in order to obtain an average retail price of the most popular crime guns recovered from criminals in each city. Even assuming conservatively that the least expensive handgun was used in each category, the average retail price of crime guns recovered in 1998 was \$260 in New York City, \$374 in Washington, D.C., and \$237 in Chicago.

Thus, even in these exceptional urban areas with stringent gun controls, where traffickers are supposed to flourish, criminals pay under the retail price for handguns. Consequently, the notion that criminals could make significant profits by selling guns purchased at retail prices from FFLs is not plausible even in cities with unusually low gun ownership rates and unusually strict gun laws, such as New York, Washington, D.C. or Chicago. Traffickers who purchase guns at retail prices can, at best, profit only by selling to unusually ill-informed or poorly connected criminals, that is, the handful willing to pay far more than the average criminal in their city. The idea of such a trafficker profiting is even less plausible with regard to places where controls over gun sales are weaker, gun ownership (and thus gun theft) rates are higher, and traffickers therefore face more competition from legal dealer sales and from stolen guns.

II. HOW DO CRIMINALS GET GUNS?

THE SURVEY EVIDENCE

The richest sources of information on gun acquisition by criminals are surveys of incarcerated criminals. The findings from direct questioning of felons are consistent with the “dispersed” model of the movement of guns to criminals, which hypothesizes that offenders most commonly steal their own guns or buy them from friends, relatives, or acquaintances. The most detailed questioning of criminals about their methods of gun acquisition was conducted by James Wright and Peter Rossi, who found that theft was an especially important method. When asked how they had obtained their most recently acquired handgun, 32 percent of felons reported that they personally stole the gun. The prisoners were also asked if they believed that their most recently acquired handgun was stolen, and 46 percent stated that the weapon was “definitely stolen” (these inmates presumably included the 32 percent who reported having personally stolen the gun). Another 24 percent indicated the weapon was “probably stolen.” Thus, the criminals believed that 46-70 percent of their handguns were stolen.

This study also found that criminals do not typically seek out guns to steal, but rather steal those they happen to come across in the course of criminal activity, most commonly thefts from homes or vehicles. . . .

EVIDENCE FROM TRACED CRIME GUNS

The belief in the importance of persistent, organized, or high-volume gun trafficking is largely based on indirect inferences from information on guns that

are seized or recovered from apprehended criminals and then traced by ATF. The process of tracing a gun works as follows: When a criminal is arrested and found to possess a gun, or when a gun is otherwise recovered by police and it is known or suspected to be a crime gun, law enforcement officers may submit a request to ATF for that gun to be traced. This means that its history is established, as officially recorded on various legal forms, hopefully up to the point of first retail sale — when it was first sold as a new gun. ATF typically does this by first contacting the manufacturer or importer (or, equivalently, by consulting a manufacturer’s computer database supplied to ATF) in order to identify the distributor (wholesaler) to whom the gun was sold by the manufacturer or importer. ATF then contacts this distributor to establish the identity of the licensed retail dealer to whom the gun was sold. Finally, ATF contacts the retail dealer who sold the gun, in order to establish who first purchased the new gun. If all necessary records were completed and remain available, the gun can be traced as far back as its first private owner, at which point the paper trail ends, since ATF typically does not have access to records of transfers (including thefts) that occur after the first retail sale. A criminal who uses a gun to commit a violent crime is rarely the weapon’s first retail purchaser, so tracing alone rarely identifies a previously unknown suspect. Indeed, most crime guns become available for tracing only because they were recovered from criminal possessors at the time of their arrest. ATF and local law enforcement agencies more commonly use trace data for the purpose of identifying unlicensed traffickers or high-risk potentially corrupt FFLs.

PUTATIVE GUN-TRAFFICKING INDICATORS

[In this section the authors evaluate ATF’s process of using indicators that it believes are correlated with a heightened probability that a given crime gun was trafficked. They conclude that “ATF has not directly validated any of these indicators, for example, by demonstrating that it can efficiently differentiate trafficked guns from nontrafficked guns, or that it can identify dealers who were later found, through law enforcement investigation or inspection of dealer records, to be traffickers. Nor has ATF made any specific claims as to what share of trafficked guns or corrupt dealers are characterized by any given indicator. Scholars who use ATF’s indicators have generally simply assumed their validity, based largely on ATF arguments as to why they should be associated with trafficking.”]

OUT-OF-STATE (OOS) ORIGINS

Some traffickers or their straws buy significant numbers of guns in batches from sources in states with weaker gun control laws, and then sell the guns in high-control states. A significant volume of interstate gun smuggling would suggest that substantial numbers of crime guns were first purchased in a state different from the one in which police recovered them. It certainly is true that many guns used in crimes had previously been moved across state lines. Some

scholars, however, have overinterpreted this fact as signaling something about the prevalence of interstate gun smuggling. . . .

NYC provides a useful extreme case study, since an unusually large share of its crime guns have OOS origins — 84.5 percent of those traced in 2000, compared to 38 percent of guns recovered nationwide. Given that virtually no private citizen may legally buy handguns in NYC, it is scarcely surprising that few crime handguns were first purchased in NYC. Does interstate gun smuggling into NYC, however, account for this cross-state movement of guns, or could routine migration of gun owners produce the same result? Census Bureau data indicates that in 2000, 798,565 of NYC's residents had been born in a different state, 368,388 of them in the South. All of these NYC residents necessarily lived in a different state, and then moved to New York. Still other residents were born in New York, moved to another state, and then moved back to New York. In just the five-year period between 1995 and 2000, 301,243 people moved from a different state to NYC. These migrants presumably moved their possessions with them. If handgun ownership among these migrants was equal to U.S. average (at least 0.325 handguns per person), migrants born in other states would have moved about 260,000 handguns from other states into NYC, and recent migrants alone would have moved around 98,000 handguns just in the preceding five-year period, about 20,000 per year. At this rate, over a period of a single seventy-year human life span, 1.4 million OOS handguns would have been moved into the city, lending some credence to the admittedly extreme guess by the Intelligence Division of the New York Police Department that there were two million illegal handguns in the city in 1980. While some migrants who are both law-abiding and aware of New York's strict gun laws no doubt leave their handguns behind, others surely do not, either due to ignorance, or due to a judgment that retaining their handguns is more important than obeying gun laws. Among migrants, criminals would be especially likely to move their handguns with them, both because they are more willing to violate gun laws, and because they expect to need them for criminal activity and for self-protection.

As a standard of comparison, in 2003 a total of 3,666 violent crimes (homicides, robberies, and assaults) known to the police were committed with guns in NYC. Even if one implausibly assumed that each gun crime involved a different gun, thereby maximizing the number of crime-involved guns, the criminal population needed at most 3,666 guns to commit all of the known violent gun crimes in NYC.

These numbers do not suggest either that all of NYC's crime handguns actually do arrive through people moving to the city, or that 1.4 million handguns have actually arrived in the city in this way over the course of the past seventy years. But these numbers do establish that all handguns used in crime in a given year easily could have been arrived in this way, without any organized gun smuggling. Thus, routine cross-state migration of gun owners provides a credible alternative explanation for cross-state movement of the city's crime guns. Further, still other mechanisms besides interstate gun-running move guns across state lines. Any NYC resident can get a handgun if she or he has a friend or relative in another state who is willing to buy a handgun for them. A one-time straw purchase of this sort would be unlawful, but it would be misleading to label either participant a trafficker.

After arrival in the city, many guns will inevitably move into criminal possession through residential burglary, vehicle theft, and other thefts. The last large-scale victimization survey conducted in NYC estimated that there were 184,100 household burglaries in 1972, at a time when the city had about 2,832,036 occupied housing units. Thus, assuming no repeat victimization within a year, an average NYC residence had a 6.5 percent chance of being burglarized. Homes in high-crime neighborhoods, where handgun possession for self-protection may be higher, had a still higher risk of burglary. At this rate, a home containing a handgun would have about a 49 percent chance of being burglarized within a decade.

To be sure, gun smuggling does move at least a few handguns into NYC, given that law enforcement agencies occasionally uncover gun smuggling operations, albeit typically small-scale ones. There are evidently a few criminals who do not appreciate the difficulties of making a living from gun-running, particularly the risks associated with contacting large numbers of paying customers without coming to the attention of police. And the frequent news stories of guns being purchased “down South” for \$100 and sold “on the streets” of NYC for \$600 may inadvertently encourage occasional attempts at high-volume gun-running by especially naive criminals. Nevertheless, as previously noted, over the period from 1990 to 2006, only six trafficking operations that moved a hundred or more guns were reported in NYC newspapers—about one every three years. There is no evidence that the total number of guns trafficked into the nation’s largest city in a typical year is more than a few hundred—a tiny number compared to the 20,000 or so handguns that could move into the city annually as a byproduct of the routine migration of gun owners.

If ordinary migration followed by gun theft, rather than gun smuggling, accounts for the vast majority of cross-state movement of crime guns, one would expect that crime guns with OOS origins would be especially likely to originate in states with high gun ownership rates, since a higher share of migrants from such states would own guns in the first place. ATF trace data indicate that this is indeed the observed pattern. For example, among NYC crime guns recovered in 2000, the leading source states were New York (15.5 percent), Virginia (14.0 percent), North Carolina (9.4 percent), and Georgia (9.2 percent). Based on 2001 state-level surveys, all of the three leading originating states had rates of household gun ownership higher than the national average. While some scholars have interpreted such patterns as indicating that OOS crime guns tend to originate in places with weaker gun laws, there is no evidence that weakness of gun laws in source states has any impact on the patterns of interstate movement of guns, independent of the higher gun-ownership levels that tend to prevail in those same states . . .

GUNS SOLD BY A DEALER WITH A HIGH TRACE COUNT . . .

The Attorney General of New York, Andrew Cuomo, made it clear during his 2006 election campaign that his planned policies for dealing with illegal guns were based on the belief that high trace counts indicate illegal behavior by gun dealers: “A wave of illegal guns has been breaking over New York for years.

Incredibly, 1 percent of gun dealers account for the majority of illegal guns [that is, traced guns]. We need to crack down on their illegal behavior and put them out of business.”

The fact that many crime guns are traced back to a licensed dealer may appear damning, but for most such dealers, there are perfectly legitimate explanations for their high trace counts. First, if a dealer has a higher sales volume, it necessarily implies a larger number of guns at risk of coming into criminal possession through channels (such as theft from the owner) that are beyond the dealer’s control. Thus, merely operating a successful business will increase the chances that a dealer will register a high trace count. A study of California FFLs found that just 11.7 percent of dealers accounted for 85.5 percent of traced crime handguns. This might suggest, as Mr. Cuomo apparently believed, that many of these FFLs must be criminal or irresponsible dealers — until one learns that these same dealers also accounted for 81.5 percent of all handgun sales. That is, their share of crime guns was only slightly higher than one would expect if the FFLs were lawful and responsible dealers, and sheer sales volume accounted for their high trace counts. A dealer-level analysis likewise found that sales volume alone accounted for most of the variation in dealers’ trace counts.

Second, some FFLs do business in areas with higher crime rates, which leads to a larger share of the dealer’s guns being stolen from their lawful purchasers, used in crimes, recovered by police, and traced by ATF. . . .

Consonant with these observations, ATF has long acknowledged that most licensed dealers to whom crime guns have been traced have been found to have been “operating within the confines of Federal law, and the vast majority of the illegal acts relating to these firearms occurred on the part of the individual purchasers” and not the dealers. Even Philip Cook and Anthony Braga, who strongly favor using tracing to uncover trafficking, conceded that “the number of traces to a particular FFL is only a rough indicator of the likelihood that the FFL is engaging in negligent or criminal sales practices.” Even this weak endorsement of trace counts as an indicator of trafficking, however, cannot be justified, since the ability of high trace counts to efficiently identify corrupt FFLs has never been empirically demonstrated.

OBLITERATED SERIAL NUMBER (OSN)

ATF is typically circumspect in its claims about the validity of the trafficking indicators it employs, for example, stating that short TTR [time to recovery] “suggests illegal diversion” or that “acquisition of handguns in multiple sales can be” a trafficking indicator. In sharp contrast, ATF flatly states that “the obliteration of the serial number on a crime gun is a key criminal indicator of trafficking,” and that “crime guns with obliterated serial numbers are likely to have been trafficked.” Braga and Pierce echo this assessment, unequivocally describing OSN as “a clear indicator of gun trafficking.” An OSN probably is the strongest available indicator of trafficker involvement in a gun’s movement, since there are powerful motives for traffickers to efface serial numbers, while few people who are not traffickers have equally strong reasons for doing so. Obliteration not only definitively establishes that a criminal possessed the gun at some time (effacing a serial number is itself a crime), but also constitutes

strong evidence that some past possessor wanted to obstruct the tracing of the gun, and thereby prevent it from being linked with past, presumably illegal, transfers. . . .

BIASES IN SAMPLES OF TRACED GUNS

Experts have repeatedly concluded that the guns traced by ATF are not a representative sample of crime guns, and cannot provide a reliable picture of the modes of acquisition most frequently used by criminals or the paths of distribution that crime guns most often follow. For example, the National Research Council’s Committee to Improve Research Information and Data on Firearms flatly concluded that “trace data cannot show whether a firearm has been illegally diverted from legitimate firearms commerce.” It further concluded that studies based on this data “cannot show what happened in between [the first retail sale and recovery by law enforcement]: whether a firearm was legitimately purchased and subsequently stolen, sold improperly by a licensed dealer, or any other of a myriad of possibilities.” . . .

The problem is not merely that traced guns do not constitute a random sample of crime guns, and thus might be unrepresentative of crime guns generally. Rather, the processes by which guns are selected for tracing are known to systematically bias samples of crime guns in ways that tend to exaggerate the share of guns characterized by putative trafficking indicators. The biased selection occurs at two stages: (1) when police choose to request ATF traces for some guns and not others, and (2) when ATF is able to successfully trace some guns submitted for tracing but not others. When police recover crime guns, their primary motive for submitting the guns for tracing is to help identify possible traffickers (and occasionally other types of criminals). It therefore is sensible for law enforcement officers to favor tracing guns that show initial indications of trafficker involvement. . . . There might also be a preference for tracing newer models of guns, or guns that, based on limited wear, look newer, since tracing older guns has less investigative value — it is unlikely that identifying the person who bought a gun when it was new ten or twenty years ago would help identify a current trafficker. ATF has explicitly acknowledged that there is more law enforcement value in tracing newer guns: “Short time-to-crime guns have the most immediate investigative potential for law enforcement officials because they are likely to have changed hands less frequently.”

One implication of this bias in favor of guns with a short TTR is that unwary analysts may misinterpret data on samples of traced guns as indicating that a large percentage of crime guns move directly from retail sale as new guns into the hands of criminals, even if the large share of guns with a short TTR is largely a reflection of the fact that police see little value in tracing older guns. . . .

Samples of guns submitted for tracing may also under-represent guns with in-state origins because law enforcement personnel in states with their own gun-registration systems can use those systems to trace in-state guns, turning to ATF mostly for tracing of out-of-state guns along with a few in-state guns that were not successfully traced by the state’s databases. Such a systematic bias would artificially inflate the out-of-state share. . . .

Further, types of guns that are of especially strong political interest and subject to heightened media attention may also be overrepresented among guns selected by police for tracing. Failure to fully appreciate this bias in traced-gun samples has lead [*sic*] to unwarranted conclusions in past research. For example, Travis and Smarrito claimed that assault weapons (AWs) were “disproportionately involved in criminal activity,” based entirely on samples of traced guns, which over-represent AWs. Likewise, Christopher Koper and Jeffrey Roth concluded that national trends in trace requests suggest that criminal use of AWs declined after the federal assault weapons ban was passed. In sharp contrast, Koper’s and Roth’s data on all AWs recovered by police (not just those submitted to ATF for tracing) indicated that there were no significant declines in the AW share of crime guns in the wake of the federal ban. Thus the decline in AW trace requests may merely have been an artifact of a decline in police interest in tracing AWs once the AW problem was “solved” by passage of the federal AW ban and once news media interest in the issue declined. . . .

In addition to police preferences for submitting trace requests on guns with certain traits, ATF has its own policies concerning which guns it will trace, and these policies further bias samples of traced guns. At various times in the past, ATF would not routinely trace guns more than five (or ten, or twenty) years old, which skewed the distribution so that nearly all traced guns were relatively new, no matter how common older guns were in the entire population of recovered crime guns. For example, in a 1999 report, ATF stated that their National Tracing Center’s “policy was not to trace firearms manufactured before 1990, unless specifically requested by a law enforcement management official” — that is, no tracing of guns more than nine years old. . . .

Even if police really did submit all recovered guns for tracing, only an unrepresentative subsample could be successfully traced to the point where the presence or absence of various potential indicators of trafficking can be established. For example, a gun must be successfully traced to its first retail sale in order to establish whether this sale occurred in a state different from the one in which it was recovered, or to determine how long ago the sale occurred, thereby establishing TTR. ATF, however, will not even initiate traces on older guns unless a law enforcement executive makes a special request, or the dealer that sold the gun has gone out of business and the records of their transfers can be found in ATF’s out-of-business dealer files. Thus, among the 88,570 guns for which police in forty-four cities requested a trace in 2000, ATF did not even begin a trace for 12.8 percent of them, in most cases because the gun was too old. Among the guns for which ATF did initiate a trace, another 33.6 percent could not be successfully traced to their first retail purchaser. And for at least 10.7 percent of all trace requests, a trace could not be completed to the first retail purchaser for reasons clearly related to the gun being older (it had been produced or imported by a manufacturer or importer no longer in business, the twenty-year record retention period had expired, or records were otherwise no longer available). . . .

CONCLUSION

The model of criminal gun acquisition underlying lawsuits based on claims of negligent distribution is largely a myth, composed in part of rare and

unrepresentative anecdotes about a handful of genuinely corrupt licensed gun dealers and misinterpreted ATF trace data. In contrast, the following conclusions are supported by the strongest prior research on the movement of guns to criminals, and the results of the empirical research reported in this paper:

1. Time-to-recovery (TTR, or “time-to-crime”) measures are not trafficking indicators. They more likely are indirect indicators of the gun theft rate, with which they are far more strongly correlated.
2. High trace counts for FFLs are not indicators of trafficking by FFLs. They are, first, indirect measures of gun dealer sales volume and of local gun ownership levels. In places where there are more gun owners, there are more guns sold by licensed dealers, and eventually more guns stolen and found in the possession of criminals. Second, high trace counts are indirect measures of the rates of gun theft prevailing in the areas served by the FFLs. No research has ever shown high trace counts to be even weakly correlated with a dealer’s identification as a trafficker once one holds constant the dealer’s sales volume and gun theft rates prevailing in the areas served by the dealer.
3. The only variable that is likely to be a strong city-level measure of gun trafficking activity is the prevalence of obliterated serial numbers (OSNs) among recovered crime guns.
4. Illicit gun selling is almost all done at a very low volume. Typical trafficking operations uncovered by law enforcement authorities handle fewer than seven guns each, and ATF uncovers fewer than fifteen high-volume (greater than 250 guns) operations in the entire nation each year.
5. High-volume trafficking, with or without the involvement of corrupt or negligent FFLs, probably supplies less than 1 percent of criminals’ guns.
6. Trafficking, if validly measured by OSN prevalence, has no measurable effect on levels of gun possession among criminals, as measured by the percent of homicides committed with guns, and has no effect on violent crime rates. One likely explanation would be that nearly all traffickers’ potential criminal customers have other sources of guns (especially the pool of locally stolen guns) and are not dependent on traffickers.
7. These specific conclusions logically lead to the broad policy conclusion that even the best-designed strategies aimed at reducing gun trafficking are unlikely to have any measurable effect on gun possession among criminals or on violent crime rates. In particular, lawsuits intended to make the firearms industry rein in gun trafficking involving the knowing complicity or negligence of licensed dealers are unlikely to have such effects.

We can learn something about the potential of such strategies by considering evaluations of existing programs aimed at reducing trafficking. Perhaps the best known effort to reduce gun violence by going after traffickers was the Boston Gun Project, implemented in 1996-1999. The academic architects of the Project have conceded that criminal gun possession probably did not decline in Boston, and that much-touted short-term drops in gang homicide could not be attributed to the “law enforcement attack on illicit firearms

traffickers,” since criminal cases against traffickers were made only after the drops in gang homicide had already occurred. They also conceded that they had no firm evidence that “supply-side enforcement strategies have any measurable impacts on gun violence,” though they nevertheless argued that these efforts somehow “increased the ‘effective price’ for new handguns.”

Their basis for this last claim was that the share of Boston’s crime guns that were new (recovered within three years of initial sale) declined during the Project’s implementation from 1996 to 1999, a drop that they interpreted as a decline in the trafficking of new handguns. In fact, this decline paralleled a 50 percent decline in the city’s burglary rate over the same period, a decline that began years before the Project started. As soon as the burglary decline ended in 1999, the decline in the new gun share of Boston’s crime guns also promptly stopped. Thus, the decline in new handguns that the authors perceived as evidence of a decline in one type of gun trafficking was more likely due to a drop in the burglary rate, and thus the gun theft rate.

Similarly dubious interpretations of trends in short-TTR guns afflict the efforts of Webster, Bulzacchelli, Zeoli, and Vernick to assess the impact of police stings directed at suspect FFLs in Chicago, Detroit, and Gary, Indiana in the late 1990s. The authors concluded that the stings caused a decline in Chicago in corrupt FFLs channeling guns to criminals, based on the declining share of traced crime guns that were recovered from a criminal who was not the original possessor, and that had a short TTR (this share increased nonsignificantly in Gary). The authors failed to note, however, that over the period studied, 1996-2001, the burglary rate declined by 39 percent in Chicago and 62 percent in Detroit, implying similarly huge drops in gun thefts, which would in turn result in fewer crime guns with a short TTR. Thus, the patterns among traced crime guns that the authors observed could be entirely due to the decline in gun theft rather than stings of licensed dealers.

Theft is central to criminal gun acquisition. Interviews with incarcerated felons indicate that most guns acquired by criminals were probably stolen at some time in the past. Most gun theft is a by-product of residential burglary and other thefts from private owners. Less than two percent of stolen guns are stolen from dealers and other licensees. Only 12,302 gun thefts from FFLs were reported in 1997, compared to about 618,000 total gun thefts, based on victim survey estimates. Unlike gun sales by traffickers, every gun theft by definition places a gun directly and immediately into criminal hands. Further, the known volume of gun theft is many times higher than any evidence-based estimate of the volume of trafficked guns.

One could speculate that even though virtually all known traffickers handle very small numbers of guns, there are many high-volume dealers who are too smart or lucky to be caught. One might also speculate that even though trafficked guns known to authorities are few in number, traffickers actually sell large numbers of undiscovered guns. One could also speculate that, unknown to criminal buyers, a large share of the guns they bought had been moved by professional traffickers further back in the chain of possession. There is, however, no affirmative evidence to support any of these speculations. The view that organized or large-scale trafficking is important in arming American criminals is based not on strong evidence but rather on (1) claims phrased in terms so vague and ill-defined as to render the assertions meaningless or trivial,

(2) isolated anecdotes about unrepresentative, extremely rare large-scale trafficking operations uncovered by law enforcement authorities, and (3) dubious interpretations of highly ambiguous gun trace data. These are not sound bases for making public policy.

NOTES & QUESTIONS

1. Kleck's assessment indicates that states with more guns will have more stolen guns. Does this suggest that the resources spent on interdicting gun traffickers would be better allocated to policing gun theft? If so, what regulatory measures can you think of to reduce the number of gun thefts? Think about and discuss the following measures in terms of their likely effectiveness and whether they would violate the right to keep and bear arms:
 - A safe storage law that imposes civil penalties on any victim of gun theft who fails to report the theft to the police within 48 hours of learning of the theft.
 - A safe storage law that requires firearms to be locked away unless the owner was inside the home.
 - A safe storage law that requires all guns to be stored in a safe securely attached to the structure of the home (e.g., bolted to the wall or floor), unless the owner is inside the home.
 - A rule imposing an automatic civil penalty on any victim of gun theft who cannot show that the gun was stored in accordance with the law.
2. Based on Kleck's research, what other changes would you suggest in laws or law enforcement strategy to more effectively interdict gun trafficking?

H. Race, Gun Crime, and Victimization

Blacks, particularly young Black males, are disproportionately victims and the perpetrators of violent crime. In the excerpt below, William Oliver summarizes the problem.

**William Oliver, The Structural-Cultural Perspective:
A Theory of Black Male Violence in Violent Crime,
in *Violent Crime: Assessing Race and Ethnic Differences* 280
(Darnell F. Hawkins ed., 2003)**

The disproportionate rates of violent crime found among African Americans have been described in numerous studies and reports. For example, the FBI reports that in 1998, African Americans, who constitute 13 percent of the general population, were overrepresented among persons arrested for murder (53 percent), robbery (55 percent), aggravated assault (30 percent) and assault (34 percent). (U.S. Department of Justice, 1998). A significant characteristic of

violent crime in the United States is that most violent incidents tend to involve an intraracial victim-offender relationship pattern. That is, individuals who commit acts of violence generally commit these acts against members of their own racial group. For example, in 1998, 94 percent of black murder victims were slain by black offenders. Similarly in 1998, 87 percent of white murder victims were slain by white offenders (U.S. Department of Justice 1998) . . .

The most revealing data regarding the disproportionate impact that violent crime is having on African Americans, particularly black makes is the data on homicide victimization. According to the FBI, in 1998, black males represented 38 percent of known homicide victims, followed in descending order by white males (35 percent), white females (14 percent) and black females (9 percent) (U.S. Department of Justice 1998). High rates of homicide among African Americans also have been reported in compilations of health statistics. According to data compiled by the National Center for Health Statistics (1998), black males had a homicide death rate of 52.6 per 100,000 in 1996, whereas white males had a homicide death rate of 4.7 per 100,000 (National Center for Health Statistics, 1998).

As a group, violence researchers generally regard individuals in the age range between fifteen and twenty-four as the most murder prone. However, there are significant differences between black and white males of this age in terms of their homicide risk. For example, white males fifteen to twenty-four years of age had a homicide death rate of 6.4 per 100,000 in 1996, whereas black males of this age range had a homicide death rate of 123 per 100,000, nearly twenty times greater than similarly aged white males. Moreover, for every age range, black males have higher rates of homicide death than their white male counterparts of the same ages.

A significant trend in homicide patterns involves the increasing youthfulness of homicide offenders and victims. Young black males experienced dramatic increases in both homicide victimization and offending rates in the late 1980s and early 1990s (Fox and Zawitz, 1998). For example, the number of homicide victims in the fifteen to twenty-four age group increased nearly 50 percent between 1975 and 1992. Moreover, in 1987, homicide accounted for 42 percent of all deaths among young black males. Persons between the ages of fifteen and nineteen experienced the greatest increases in the rate of death due to homicide in this period (Fingerhut et al. 1992). Since 1991, homicide rates have been declining among all race-sex subgroups in the United States. However it is important to note that in spite of the declining homicide rates among black males, homicide remains the leading cause of death among black males between fifteen and twenty four years of age.

The phenomenon described by Oliver is illuminated by the data in Tables 12-12 to 12-14. They illustrate the most recent data about how the violent and some nonviolent crime rate vary by race. All of the tables are from the FBI's 2010 Uniform Crime Reports. Note that the tables show arrests rather than final disposition. Table 12-12 shows overall arrests broken out by race. Table 12-13 shows data for the same offenses counting only offenders under the age of 18. Table 12-14 breaks out the data for adults (age 18 and over). The data on the percentage of arrestees by racial group reflects most vividly the worry expressed in the narrative above.

TABLE 12-12
Total Arrests by Race, 2010

| Arrests by Race, 2010 [12,221 agencies; 2010 estimated population 240,100,189] | Total arrests | | | | | Percent distribution ¹ | | | | |
|--------------------------------------------------------------------------------------|-------------------|------------------|------------------|--------------------------------------------|---------------------------------|-----------------------------------|-------------|-------------|--------------------------------------------|---------------------------------|
| | Total | White | Black | American Indian or Alaskan Native | Asian or Pacific Islander | Total | White | Black | American Indian or Alaskan Native | Asian or Pacific Islander |
| TOTAL | 10,177,907 | 7,066,154 | 2,846,862 | 145,612 | 119,279 | 100.0 | 69.4 | 28.0 | 1.4 | 1.2 |
| Murder and nonnegligent manslaughter | 8,641 | 4,261 | 4,209 | 91 | 80 | 100.0 | 49.3 | 48.7 | 1.1 | 0.9 |
| Forcible rape | 15,503 | 10,178 | 4,925 | 214 | 186 | 100.0 | 65.7 | 31.8 | 1.4 | 1.2 |
| Robbery | 87,587 | 37,906 | 48,154 | 617 | 910 | 100.0 | 43.3 | 55.0 | 0.7 | 1.0 |
| Aggravated assault | 317,435 | 202,275 | 106,382 | 4,854 | 3,924 | 100.0 | 63.7 | 33.5 | 1.5 | 1.2 |
| Burglary | 225,775 | 152,210 | 69,541 | 1,961 | 2,063 | 100.0 | 67.4 | 30.8 | 0.9 | 0.9 |
| Larceny-theft | 998,476 | 687,609 | 282,246 | 14,323 | 14,298 | 100.0 | 68.9 | 28.3 | 1.4 | 1.4 |
| Motor vehicle theft | 55,278 | 35,009 | 18,797 | 696 | 776 | 100.0 | 63.3 | 34.0 | 1.3 | 1.4 |
| Arson | 8,766 | 6,592 | 1,978 | 100 | 96 | 100.0 | 75.2 | 22.6 | 1.1 | 1.1 |
| Violent crime ² | 429,166 | 254,620 | 163,670 | 5,776 | 5,100 | 100.0 | 59.3 | 38.1 | 1.3 | 1.2 |
| Property crime ² | 1,288,295 | 881,420 | 372,562 | 17,080 | 17,233 | 100.0 | 68.4 | 28.9 | 1.3 | 1.3 |
| Other assaults | 1,004,273 | 659,171 | 318,117 | 14,848 | 12,137 | 100.0 | 65.6 | 31.7 | 1.5 | 1.2 |
| Forgery and counterfeiting | 60,538 | 40,167 | 19,350 | 342 | 679 | 100.0 | 66.4 | 32.0 | 0.6 | 1.1 |
| Fraud | 144,214 | 95,126 | 46,493 | 1,253 | 1,342 | 100.0 | 66.0 | 32.2 | 0.9 | 0.9 |
| Embezzlement | 12,930 | 8,568 | 4,037 | 88 | 237 | 100.0 | 66.3 | 31.2 | 0.7 | 1.8 |
| Stolen property; buying, receiving, possessing | 74,122 | 48,303 | 24,494 | 598 | 727 | 100.0 | 65.2 | 33.0 | 0.8 | 1.0 |
| Vandalism | 197,015 | 145,284 | 46,306 | 3,279 | 2,146 | 100.0 | 73.7 | 23.5 | 1.7 | 1.1 |

| <i>Offense charged</i> | <i>Total arrests</i> | | | | <i>Percent distribution¹</i> | | | | | |
|------------------------------------------------------|----------------------|--------------|--------------|------------------------------------------|-----------------------------------------|--------------|--------------|--------------|------------------------------------------|----------------------------------|
| | <i>Total</i> | <i>White</i> | <i>Black</i> | <i>American Indian or Alaskan Native</i> | <i>Asian or Pacific Islander</i> | <i>Total</i> | <i>White</i> | <i>Black</i> | <i>American Indian or Alaskan Native</i> | <i>Asian or Pacific Islander</i> |
| Weapons; carrying, possessing, etc. | 123,278 | 71,772 | 49,443 | 874 | 1,189 | 100.0 | 58.2 | 40.1 | 0.7 | 1.0 |
| Prostitution and commercialized vice | 48,154 | 26,156 | 20,405 | 342 | 1,251 | 100.0 | 54.3 | 42.4 | 0.7 | 2.6 |
| Sex offenses (except forcible rape and prostitution) | 56,125 | 41,406 | 13,182 | 744 | 793 | 100.0 | 73.8 | 23.5 | 1.3 | 1.4 |
| Drug abuse violations | 1,270,443 | 846,736 | 404,609 | 8,766 | 10,332 | 100.0 | 66.6 | 31.8 | 0.7 | 0.8 |
| Gambling | 7,512 | 2,160 | 5,071 | 32 | 249 | 100.0 | 28.8 | 67.5 | 0.4 | 3.3 |
| Offenses against the family and children | 84,812 | 56,233 | 26,470 | 1,533 | 576 | 100.0 | 66.3 | 31.2 | 1.8 | 0.7 |
| Driving under the influence | 1,082,301 | 927,516 | 124,467 | 13,980 | 16,338 | 100.0 | 85.7 | 11.5 | 1.3 | 1.5 |
| Liquor laws | 396,942 | 329,895 | 47,529 | 14,129 | 5,389 | 100.0 | 83.1 | 12.0 | 3.6 | 1.4 |
| Drunkenness | 440,688 | 362,396 | 66,837 | 8,583 | 2,872 | 100.0 | 82.2 | 15.2 | 1.9 | 0.7 |
| Disorderly conduct | 480,080 | 305,154 | 162,521 | 8,415 | 3,990 | 100.0 | 63.6 | 33.9 | 1.8 | 0.8 |
| Vagrancy | 24,759 | 14,092 | 9,935 | 567 | 165 | 100.0 | 56.9 | 40.1 | 2.3 | 0.7 |
| All other offenses (except traffic) | 2,877,687 | 1,905,436 | 893,018 | 43,634 | 35,599 | 100.0 | 66.2 | 31.0 | 1.5 | 1.2 |
| Suspicion | 903 | 582 | 310 | 5 | 6 | 100.0 | 64.5 | 34.3 | 0.6 | 0.7 |
| Curfew and loitering law violations | 73,670 | 43,961 | 28,036 | 744 | 929 | 100.0 | 59.7 | 38.1 | 1.0 | 1.3 |

¹Because of rounding, the percentages may not add to 100.0.

²Violent crimes are offenses of murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault. Property crimes are offenses of burglary, larceny-theft, motor vehicle theft, and arson.

TABLE 12-13
Arrests by Race for Offenders Under the Age of 18, 2010

| Arrests by Race, 2010 Continued [1,221 agencies; 2010 estimated population 240,100,189] | Arrests under 18 | | | | | Percent distribution ¹ | | | | |
|-----------------------------------------------------------------------------------------------|------------------|----------------|----------------|--------------------------------------------|---------------------------------|-----------------------------------|-------------|-------------|--------------------------------------------|---------------------------------|
| | Total | White | Black | American Indian or Alaskan Native | Asian or Pacific Islander | Total | White | Black | American Indian or Alaskan Native | Asian or Pacific Islander |
| TOTAL | 1,281,738 | 849,251 | 399,249 | 15,760 | 17,478 | 100.0 | 66.3 | 31.1 | 1.2 | 1.4 |
| Murder and nonnegligent manslaughter | 781 | 332 | 439 | 4 | 6 | 100.0 | 42.5 | 56.2 | 0.5 | 0.8 |
| Forcible rape | 2,181 | 1,369 | 787 | 15 | 10 | 100.0 | 62.8 | 36.1 | 0.7 | 0.5 |
| Robbery | 21,062 | 6,670 | 14,046 | 101 | 245 | 100.0 | 31.7 | 66.7 | 0.5 | 1.2 |
| Aggravated assault | 34,879 | 19,612 | 14,482 | 418 | 367 | 100.0 | 56.2 | 41.5 | 1.2 | 1.1 |
| Burglary | 51,135 | 31,539 | 18,657 | 400 | 539 | 100.0 | 61.7 | 36.5 | 0.8 | 1.1 |
| Larceny-theft | 221,901 | 143,791 | 70,833 | 2,912 | 4,365 | 100.0 | 64.8 | 31.9 | 1.3 | 2.0 |
| Motor vehicle theft | 12,223 | 6,721 | 5,166 | 172 | 164 | 100.0 | 55.0 | 42.3 | 1.4 | 1.3 |
| Arson | 3,552 | 2,677 | 784 | 39 | 52 | 100.0 | 75.4 | 22.1 | 1.1 | 1.5 |
| Violent crime ² | 58,903 | 27,983 | 29,754 | 538 | 628 | 100.0 | 47.5 | 50.5 | 0.9 | 1.1 |
| Property crime ² | 288,811 | 184,728 | 95,440 | 3,523 | 5,120 | 100.0 | 64.0 | 33.0 | 1.2 | 1.8 |
| Other assaults | 162,389 | 96,994 | 61,847 | 1,694 | 1,854 | 100.0 | 59.7 | 38.1 | 1.0 | 1.1 |
| Forgery and counterfeiting | 1,306 | 873 | 404 | 8 | 21 | 100.0 | 66.8 | 30.9 | 0.6 | 1.6 |
| Fraud | 4,557 | 2,700 | 1,753 | 52 | 52 | 100.0 | 59.2 | 38.5 | 1.1 | 1.1 |
| Embezzlement | 341 | 212 | 119 | 3 | 7 | 100.0 | 62.2 | 34.9 | 0.9 | 2.1 |
| Stolen property; buying, receiving, possessing | 11,564 | 6,486 | 4,865 | 80 | 133 | 100.0 | 56.1 | 42.1 | 0.7 | 1.2 |
| Vandalism | 60,265 | 46,992 | 11,858 | 747 | 668 | 100.0 | 78.0 | 19.7 | 1.2 | 1.1 |
| Weapons; carrying, possessing, etc. | 24,355 | 15,112 | 8,771 | 178 | 294 | 100.0 | 62.0 | 36.0 | 0.7 | 1.2 |

Arrests under 18

Percent distribution¹

| Offense charged | American Indian or Alaskan Native | | | | Asian or Pacific Islander | | | | |
|------------------------------------------------------|-----------------------------------|---------|--------|----------------|---------------------------|-------|-------|---------------------------|-----|
| | Total | White | Black | Alaskan Native | Total | White | Black | Asian or Pacific Islander | |
| Prostitution and commercialized vice | 804 | 306 | 476 | 9 | 13 | 38.1 | 59.2 | 1.1 | 1.6 |
| Sex offenses (except forcible rape and prostitution) | 10,082 | 7,228 | 2,640 | 71 | 143 | 71.7 | 26.2 | 0.7 | 1.4 |
| Drug abuse violations | 132,481 | 98,039 | 31,575 | 1,425 | 1,442 | 74.0 | 23.8 | 1.1 | 1.1 |
| Gambling | 1,039 | 86 | 942 | 3 | 8 | 8.3 | 90.7 | 0.3 | 0.8 |
| Offenses against the family and children | 2,948 | 2,114 | 746 | 72 | 16 | 71.7 | 25.3 | 2.4 | 0.5 |
| Driving under the influence | 9,290 | 8,468 | 532 | 156 | 134 | 91.2 | 5.7 | 1.7 | 1.4 |
| Liquor laws | 75,397 | 66,720 | 5,288 | 2,360 | 1,029 | 88.5 | 7.0 | 3.1 | 1.4 |
| Drunkenness | 10,003 | 8,862 | 850 | 221 | 70 | 88.6 | 8.5 | 2.2 | 0.7 |
| Disorderly conduct | 120,514 | 69,470 | 48,808 | 1,283 | 953 | 57.6 | 40.5 | 1.1 | 0.8 |
| Vagrancy | 1,690 | 1,282 | 391 | 5 | 12 | 75.9 | 23.1 | 0.3 | 0.7 |
| All other offenses (except traffic) | 231,223 | 160,564 | 64,120 | 2,588 | 3,951 | 69.4 | 27.7 | 1.1 | 1.7 |
| Suspicion | 106 | 71 | 34 | 0 | 1 | 67.0 | 32.1 | 0.0 | 0.9 |
| Curfew and loitering law violations | 73,670 | 43,961 | 28,036 | 744 | 929 | 59.7 | 38.1 | 1.0 | 1.3 |

¹Because of rounding, the percentages may not add to 100.0.

²Violent crimes are offenses of murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault. Property crimes are offenses of burglary, larceny-theft, motor vehicle theft, and arson.

TABLE 12-14
Arrests by Race for Adults (Age 18 and Over)

| Arrests by Race, 2010 Continued [11,221 agencies; 2010 estimated population 240,100,189] | Arrests 18 and over | | | | | Percent distribution ¹ | | | | |
|------------------------------------------------------------------------------------------------|---------------------|------------------|------------------|--------------------------------------------|---------------------------------|-----------------------------------|-------------|-------------|--------------------------------------------|---------------------------------|
| | Total | White | Black | American Indian or Alaskan Native | Asian or Pacific Islander | Total | White | Black | American Indian or Alaskan Native | Asian or Pacific Islander |
| TOTAL | 8,896,169 | 6,216,903 | 2,447,613 | 129,852 | 101,801 | 100.0 | 69.9 | 27.5 | 1.5 | 1.1 |
| Murder and nonnegligent manslaughter | 7,860 | 3,929 | 3,770 | 87 | 74 | 100.0 | 50.0 | 48.0 | 1.1 | 0.9 |
| Forcible rape | 13,322 | 8,809 | 4,138 | 199 | 176 | 100.0 | 66.1 | 31.1 | 1.5 | 1.3 |
| Robbery | 66,525 | 31,236 | 34,108 | 516 | 665 | 100.0 | 47.0 | 51.3 | 0.8 | 1.0 |
| Aggravated assault | 282,556 | 182,663 | 91,900 | 4,436 | 3,557 | 100.0 | 64.6 | 32.5 | 1.6 | 1.3 |
| Burglary | 174,640 | 120,671 | 50,884 | 1,561 | 1,524 | 100.0 | 69.1 | 29.1 | 0.9 | 0.9 |
| Larceny-theft | 776,575 | 543,818 | 211,413 | 11,411 | 9,933 | 100.0 | 70.0 | 27.2 | 1.5 | 1.3 |
| Motor vehicle theft | 43,055 | 28,288 | 13,631 | 524 | 612 | 100.0 | 65.7 | 31.7 | 1.2 | 1.4 |
| Arson | 5,214 | 3,915 | 1,194 | 61 | 44 | 100.0 | 75.1 | 22.9 | 1.2 | 0.8 |
| Violent crime ² | 370,263 | 226,637 | 133,916 | 5,238 | 4,472 | 100.0 | 61.2 | 36.2 | 1.4 | 1.2 |
| Property crime ² | 999,484 | 696,692 | 277,122 | 13,557 | 12,113 | 100.0 | 69.7 | 27.7 | 1.4 | 1.2 |
| Other assaults | 841,884 | 562,177 | 256,270 | 13,154 | 10,283 | 100.0 | 66.8 | 30.4 | 1.6 | 1.2 |
| Forgery and counterfeiting | 59,232 | 39,294 | 18,946 | 334 | 658 | 100.0 | 66.3 | 32.0 | 0.6 | 1.1 |
| Fraud | 139,657 | 92,426 | 44,740 | 1,201 | 1,290 | 100.0 | 66.2 | 32.0 | 0.9 | 0.9 |
| Embezzlement | 12,589 | 8,356 | 3,918 | 85 | 230 | 100.0 | 66.4 | 31.1 | 0.7 | 1.8 |
| Stolen property; buying, receiving, possessing | 62,558 | 41,817 | 19,629 | 518 | 594 | 100.0 | 66.8 | 31.4 | 0.8 | 0.9 |
| Vandalism | 136,750 | 98,292 | 34,448 | 2,532 | 1,478 | 100.0 | 71.9 | 25.2 | 1.9 | 1.1 |
| Weapons; carrying, possessing, etc. | 98,923 | 56,660 | 40,672 | 696 | 895 | 100.0 | 57.3 | 41.1 | 0.7 | 0.9 |

| <i>Offense charged</i> | <i>Arrests 18 and over</i> | | | | <i>Percent distribution¹</i> | | | | | |
|------------------------------------------------------|----------------------------|--------------|--------------|------------------------------------------|-----------------------------------------|--------------|--------------|--------------|------------------------------------------|----------------------------------|
| | <i>Total</i> | <i>White</i> | <i>Black</i> | <i>American Indian or Alaskan Native</i> | <i>Asian or Pacific Islander</i> | <i>Total</i> | <i>White</i> | <i>Black</i> | <i>American Indian or Alaskan Native</i> | <i>Asian or Pacific Islander</i> |
| Prostitution and commercial vice | 47,350 | 25,850 | 19,929 | 333 | 1,238 | 100.0 | 54.6 | 42.1 | 0.7 | 2.6 |
| Sex offenses (except forcible rape and prostitution) | 46,043 | 34,178 | 10,542 | 673 | 650 | 100.0 | 74.2 | 22.9 | 1.5 | 1.4 |
| Drug abuse violations | 1,137,962 | 748,697 | 373,034 | 7,341 | 8,890 | 100.0 | 65.8 | 32.8 | 0.6 | 0.8 |
| Gambling | 6,473 | 2,074 | 4,129 | 29 | 241 | 100.0 | 32.0 | 63.8 | 0.4 | 3.7 |
| Offenses against the family and children | 81,864 | 54,119 | 25,724 | 1,461 | 560 | 100.0 | 66.1 | 31.4 | 1.8 | 0.7 |
| Driving under the influence | 1,073,011 | 919,048 | 123,935 | 13,824 | 16,204 | 100.0 | 85.7 | 11.6 | 1.3 | 1.5 |
| Liquor laws | 321,545 | 263,175 | 42,241 | 11,769 | 4,360 | 100.0 | 81.8 | 13.1 | 3.7 | 1.4 |
| Drunkenness | 430,685 | 353,534 | 65,987 | 8,362 | 2,802 | 100.0 | 82.1 | 15.3 | 1.9 | 0.7 |
| Disorderly conduct | 359,566 | 235,684 | 113,713 | 7,132 | 3,037 | 100.0 | 65.5 | 31.6 | 2.0 | 0.8 |
| Vagrancy | 23,069 | 12,810 | 9,544 | 562 | 153 | 100.0 | 55.5 | 41.4 | 2.4 | 0.7 |
| All other offenses (except traffic) | 2,646,464 | 1,744,872 | 828,898 | 41,046 | 31,648 | 100.0 | 65.9 | 31.3 | 1.6 | 1.2 |
| Suspicion | 797 | 511 | 276 | 5 | 5 | 100.0 | 64.1 | 34.6 | 0.6 | 0.6 |
| Curfew and loitering law violations | - | - | - | - | - | - | - | - | - | - |

¹Because of rounding, the percentages may not add to 100.0.

²Violent crimes are offenses of murder and nonnegligent manslaughter, theft, motor vehicle theft, and arson.

It seems to be a common assumption that high rates of violent crime in Black neighborhoods started in the 1960s. But the data show that the Black homicide rate has actually been high in earlier decades, too. While the overall national homicide rate in 1925 was 10 per 100,000 population, Justice Research and Statistics Association, *Crime and Justice Atlas* 38 (2000), Table 12-15 shows that the homicide rate among Blacks in certain cities was many times higher. These data reflect a time where a racist neglect of crime in the Black community was a central concern. Researchers assessing the data below noted that the city fathers of Memphis explained that “most of the murders were of negroes by negroes, so the police and government could not be held responsible.” Harold M. Rose & Paula McClain, *Black Homicide and the Urban Environment*, Final Report, Grant #5 RO1 MH 29269-02, Submitted to Center for Minority Group Mental Health Programs, National Institute of Mental Health 175 (Jan. 1981).

TABLE 12-15
Homicide Rates among the Black Population
in Selected Cities 1925

| <i>City</i> | <i>Rate per 100,000</i> |
|---------------|-------------------------|
| Chicago | 102.8 |
| Detroit | 113.6 |
| Cleveland | 101.2 |
| Pittsburg | 54.4 |
| Philadelphia | 61.2 |
| Boston | 21.4 |
| Cincinnati | 189.7 |
| Indianapolis | 56.7 |
| Newark | 36.2 |
| San Francisco | 17.7 |
| Atlanta | 107.3 |
| Houston | 46.6 |
| Dallas | 99.4 |
| Memphis | 129.1 |
| New Orleans | 75.0 |
| Birmingham | 104.5 |
| Miami | 207.9 |
| Richmond | 28.5 |
| Baltimore | 39.3 |
| Washington | 31.5 |

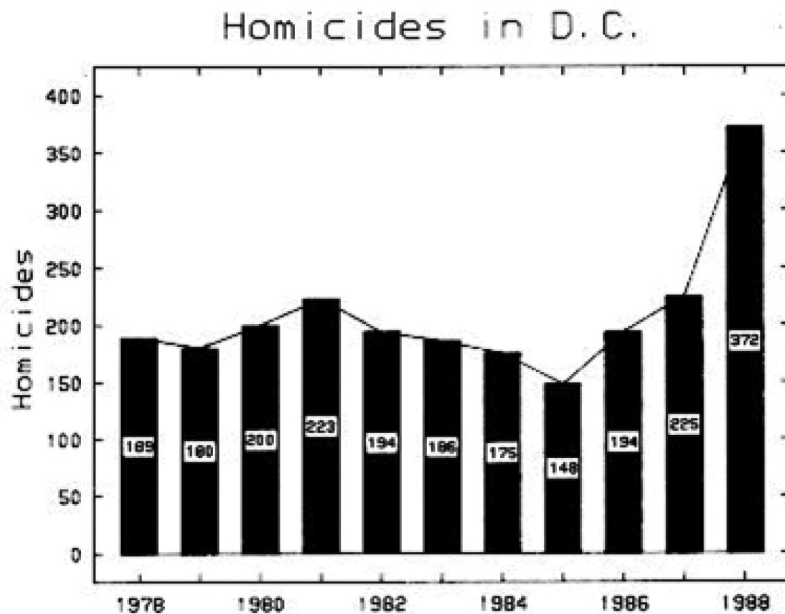
Source: Harold M. Rose & Paula McClain, *Black Homicide and the Urban Environment*, Final Report, Grant #5 RO1 MH 29269-02, Submitted to Center for Minority Group Mental Health Programs, National Institute of Mental Health (Jan. 1981) at 174-75, citing H.C. Bearley, *Homicide in the United States* (1932).

1. Experience in Washington, D.C.

During the late 1980s and the 1990s, Washington, D.C., often had the highest homicide rate of any major American city. Blacks were disproportionately both victims and perpetrators of these homicides. The following report from 1988 is one assessment of the problem.

**Claire Johnson, Public Information Specialist,
Homicide in the District of Columbia
Office of Criminal Justice Plans and Analysis, Washington, D.C.**

... The problem of homicide and violence has intensified in the District and now is the focus of national attention. ... In the District, the number of homicides has increased from 148 in 1985 to 225 in 1987. The homicide rate continued its rise in 1988 and reached an all-time high of 372.



Graph 1

Victims of homicide over the past four years were most likely to be black males between 18 and 25 years of age. Toxicology data indicate that 63 percent of the victims had some type of drug or alcohol in their systems at the time of their deaths. In 1988, about 45 percent of the victims were found to be using cocaine. This is a remarkable increase from 1985 when 15 percent of victims were found with cocaine in their systems.

Persons arrested for homicide were most likely to be black males between 18 and 24 years of age. In 1987, 30 percent of the arrestees tested positive for cocaine while 18 percent tested positive for PCP.

A greater proportion of homicides took place on weekend days and most homicides occurred between 9:00 p.m. and 3:00 a.m. In this six-hour interval, the largest percentage of homicides occurred between 9:00 p.m. and midnight.

Guns are overwhelmingly the weapon of choice in the District and nationally. Based on evidence confiscated by police, nine millimeter guns are the most common. Over the past three years, about two thirds of the District's homicide victims were killed with handguns. About one fourth were killed by stabbing.

Most homicide victims knew their assailants. While the victim-assailant relationship[s] in the majority of cases in the study period remain unknown, of those reported, most victims were the relatives, friends, or acquaintances of their assailants.

Since 1985, about 66 percent of the victims were killed at their own residence with the majority occurring outside rather than inside. From January to June, 1988, 30 percent of the victims were killed outside their own residences, 34 percent were found inside, and 36 percent were killed away from home.

Data collected on homicide motives, when they could be determined, show some significant changes over the past several years. During 1985, 33 percent of homicides resulted from altercations and arguments while 14 percent were robbery-related and 11 percent drug-related. By June 1988, the percentage of drug-related homicides increased to 80 percent while homicides resulting from altercations and arguments declined to seven percent.

The specter of violence-ridden streets, where acts of violence have become daily routines, is casting a shadow of fear and despair over many neighborhoods. While recent increases in violent crime and particularly homicide seem to be a result of numerous factors, the primary cause appears to be linked to the mushrooming illicit drug trade that has overwhelmed both the District and the rest of the nation.

In the District both assailants and victims are most likely to be young adult black males from areas containing a high proportion of low-income families. The lure of fast money and an exciting lifestyle seems to draw many young people into the drug subculture.

The proliferation of lethal weapons has also played a role in the rise of homicides. Recent police seizures of weapons indicate a greater availability of high-caliber and semi-automatic guns, which has resulted in a higher proportion of mortal gunshot wounds.

The illicit drug market produces a subculture where members create their own code of ethics and the means to enforce it. There is no legal recourse for unpaid bills in the drug world. There are no boards or committees in place to settle territorial disputes, and there is no police response when drug funds or goods are stolen. Members of the drug subculture turn to violence as the most efficient and effective solution to their problems. Failure to meet a challenge with violence in this subculture may jeopardize a person's control and may encourage others to take advantage of that person when opportunities arise.

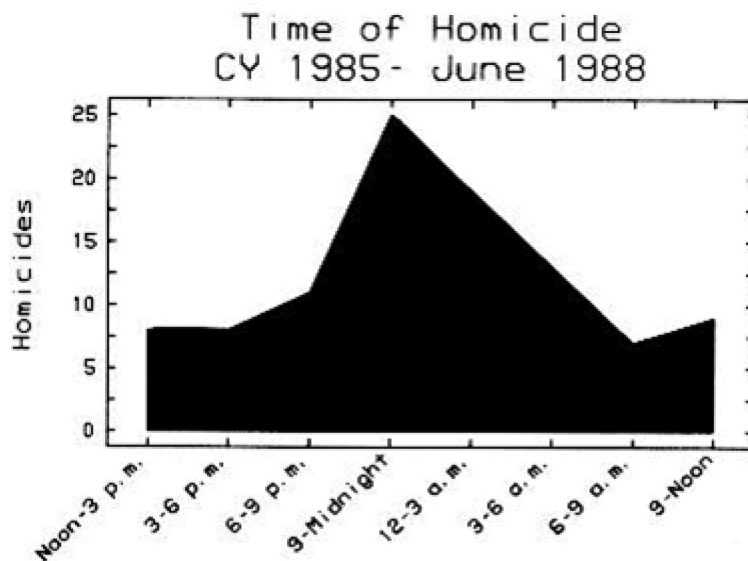
A purpose of this report is to heighten awareness of the homicide problem in professional arenas as well as among the public at large, and provide information that will help to develop new strategies for addressing this problem. This report gives support for several program and policy changes.

One demand of police by the public is to increase patrols in public areas. Findings from this report indicate that most homicides occur in and directly

around residences and that few killings occur in public areas. This suggests that increased patrolling of public areas would only minimally impact homicide occurrences.

Because of the high percentage of drug-related homicides in the District, law enforcement and prosecutorial resources might be better utilized by gathering intelligence data and infiltrating organized groups in the drug distribution networks in order to identify those persons designated as “enforcers.” Such persons are likely homicide assailants and could be targeted for surveillance and investigation.

Additionally, the fact that most homicides occur in certain areas and between 9:00 p.m. and 3:00 a.m. suggests that a combination of increased patrols and curfews in select areas and at select times could possibly deter some homicides.



Graph 2

While there are strict gun control laws in the District, the lack of such legislation in surrounding jurisdictions makes it easy for anyone to obtain a weapon. Guns are, by far, the weapon of choice, are appearing in the streets in greater quantities, and the types of firearms used are becoming more sophisticated. The implication here is that present gun control efforts are inadequate and that a regional approach must be pursued. Since 9-mm weapons are most popular, perhaps greater restrictions on their manufacture and sale will have impact on reducing homicide.

Often, when a social problem worsens and there is no improvement over a period of time, the general public develops a new level of tolerance. It is imperative that violence and homicide never become accepted as uncontrollable and unavoidable elements in the District or other city’s communities, and that fear, despair, and loss of life never become tolerated as a part of daily living

experiences. It is essential that the homicide problem be kept in focus by the public and that the various segments of the community come together to meet the challenge of reducing homicide and violence.

2. Problem of Intra-Racial Violent Crime

The disproportionate rate of Black victimization is explained by the fact that most violent crime is intraracial. Because Blacks are disproportionately the perpetrators of violent crime it is predictable that Blacks will be disproportionately victims. The difficult question is why are Blacks disproportionate perpetrators. William Oliver summarizes the diverse attempts at an answer:

Numerous explanations have been offered, including biological causes (e.g., head injuries) (Bell, 1987); social disorganization and inadequate socialization (Shaw and McKay, 1942); poverty and economic inequality (Blau and Blau, 1982); racial oppression and displaced aggression (Johnson, 1941; Poussaint, 1983); adherence to the norms of a subculture of violence (Wolfgang and Ferracuti, 1967); joblessness and family disruption (Sampson, 1987); the cheapening of black life as a result of the imposition of lenient sentences against blacks who assault or murder blacks (Hawkins, 1983); and involvement in self-destructive lifestyles centered around heavy drinking (Harper, 1976; Hary, 1986); drug abuse and drug trafficking (Goldstein et al., 1989) and street gangs (Block and Block, 1993; Decker and VanWinkle, 1996). Theoretical explanations of black male violence have generally emphasized the significance of structural factors (Staples, 1974; Hawkins, 1983) or cultural factors (Frazier, 1939; Wolfgang and Ferracuti, 1967).

Although they represent a minority viewpoint, some criminologists maintain that racial differences in violent crime offending may stem from genetic/nonacquired biological factors (Hirschi and Hindelang, 1977; Ellis and Walsh, 1997).

William Oliver, *The Structural-Cultural Perspective: A Theory of Black Male Violence in Violent Crime: Assessing Race and Ethnic Differences* 280 (Darnell F. Hawkins ed., 2003).

Another theory is that gun makers have engaged in negligent manufacturing, marketing, and distribution practices that disproportionately burden Blacks. This was the theory of a failed 1999 lawsuit by the NAACP against the American firearms industry. The lawsuit did not claim that the presence of guns turned law-abiding Black people into criminals; rather, it claimed that the too-easy availability of guns made all criminals more dangerous, and made it more likely that Black victims would die. It is undoubtedly true that a criminal with a gun is usually more dangerous than a criminal with some other weapon. At the same time, higher firearm density does not correlate with higher firearm crime. For example, a study of youth homicides found a very high homicide rate increase for inner-city Black teenagers; but in the suburbs, small towns, and rural areas, where legal restrictions on guns are generally less severe, the youth firearms homicide rate has remained relatively low. See Lois A. Fingerhut et al., *Firearm and Nonfirearm Homicide among Persons 15 through 19 Years of Age: Differences by Level of Urbanization, United States, 1979 through 1989*, 267 JAMA 3048 (1992).

3. Firearms Policy and the Black Community

Does the very serious problem of urban crime make Blacks disproportionately likely to favor gun control laws? Among elected officials, the answer is “yes.” As detailed in Chapter 8, since the late 1960s, many big-city Black mayors, and most members of the Congressional Black Caucus, have been leading advocates for gun control.

The toll that gun violence takes on Blacks (see Appendix for comparative victimization by race) might be expected to generate attitudes about firearms policy within the Black community at large that are discernibly different from the rest of the population. When asked in 2010, “What is more important—to protect the right of Americans to own guns, OR to control gun ownership?” 64 percent of Blacks said it was more important to control gun ownership, while 27 percent said that protecting rights was more important. Pew Research Ctr., [Views of Gun Control—A Detailed Demographic Breakdown](#) (Jan. 13, 2011). In contrast, 54 percent of Whites said that it was more important to protect the right to own guns. *Id.* In 2009, the Black split was 71 percent for control and 21 percent for rights. In 2008, the split was 74/22. These results support the intuition that exposure to higher levels of gun crime would engender support for gun control. The results are also consistent with the polling data in Section M indicating increased support for gun rights among the American public in recent years.

A 2012 poll measuring approval or disapproval of the National Rifle Association found that 55 percent of Blacks approved of the NRA, compared with 68 percent of the overall U.S. population. Approval of the NRA might be considered a rough proxy for overall support of gun rights, especially for defensive ownership of firearms. See Posting of David B. Kopel to Volokh.com, [Public Opinion about the National Rifle Association](#) (June 2, 2012, 10:08 P.M.).

Yet not all polling data show higher Black support for gun control. “Race predicts attitudes toward handgun bans,” observed a 1993 study. “Nonwhites were found to be more likely to oppose handgun bans than white respondents. . . . However race did not predict support for or opposition to permits or registration.” Pauline Brennan, Alan Lizotte, & David McDowall, *Guns, Southernness and Gun Control*, 9 J. Quantitative Criminology 289, 304 (1993).

NOTES & QUESTIONS

1. Both *Heller* (Chapter 9) and *McDonald* (Chapter 9) involved Black plaintiffs living under municipal gun bans who sued for the right to obtain a legal handgun for self-defense. Otis McDonald was the lead plaintiff in *McDonald*; Shelly Parker was the lead plaintiff in *Parker v. District of Columbia*, 478 F.3d 370 (D.C. Cir. 2007), in the lower courts, but the case became *District of Columbia v. Heller* in the Supreme Court, after the D.C. Circuit ruled that all the plaintiffs except Dick Heller lacked standing. If a blanket gun ban does not prevent criminals from getting guns, what is the argument for disarming people like McDonald and Parker? For a detailed discussion of this and related questions, see Nicholas J. Johnson, *Firearms Policy and the Black Community: An Assessment of the Modern Orthodoxy*, 45 Conn. L. Rev. 1491 (2013) and various responses in the 2013 *Commentary* issue of the Connecticut Law Review, 45 Conn. L. Rev. 1491-1840 (2013).

2. Many commentators are highly critical of the U.S. criminal justice system's incarceration policy. *See, e.g.*, Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (2012). During the first half of the twentieth century, some civil rights activists argued that disproportionate rates of Black crime were a result of neglect by state and local governments and police who ignored intraracial Black crime. This was evident in the efforts of the Black leaders from the Mississippi Delta on the Committee for Better Citizenship. The goal of the Committee was to "ensure greater punishment for Black criminals who committed offenses against Blacks." David T. Beito & Linda Royster Beito, *Black Maverick: T.R.M. Howard's Fight for Civil Rights and Economic Power* 67-68 (2009). Physician, entrepreneur, and Delta civil rights leader T.R.M. Howard complained that failure of the state to punish Black on Black crime was another indictment of separate but equal, arguing that the "greatest danger to Negro life in Mississippi is not what white people do to Negroes but what the courts of Mississippi let Negroes of Mississippi do to each other." Black on Black murder, for example, was likely to go unaddressed if the perpetrator lived on "a big plantation and is a good worker and especially, if he is liked by white people, the chances are that he will come clear of his crime." *Id.* at 73 (citing Mississippi Regional Council of Negro Leadership, *Prospectus*, at 13-14). E. Franklin Frazier's 1924 account strikes a similar chord: "The main difficulty in the South today is that white people have not attained a conception of impersonal justice. In the South a Negro who is the favorite of an influential white man can kill another Negro with impunity. On the other hand, a white man can kill any Negro without any fear of punishment, except where he kills out of pure blood-thirstiness, a 'good nigger.' The killing of a white man is always the signal for a kind of criminal justice resembling primitive tribal revenge." E. Franklin Frazier, *The Negro and Non-Resistance*, *The Crisis*, Mar. 1924, at 213-214, *reprinted in* Herbert Aptheker, *3 A Documentary History of the Negro People in the United States* 451 (1951). For the view that state malevolence and neglect exacerbated intra-group violence by Blacks who were wary about entanglements with the white power structure, see, for example, Hortense Powdermaker, *After Freedom: A Cultural Study of the Deep South* (1939).

Are the two concerns summarized here mutually exclusive? What other factors might account for the disproportionate rates of violent crime and victimization among Blacks. Is the trend consistent with other identified legacies of racism? Is racism a convincing explanation?

3. Recall the discussion of "Stop and Frisk" in *Terry v. Ohio*, 392 U.S. 1 (1968) (Chapter 8.D.5). Some public officials complain that stop-and-frisk tactics result in a disproportionate number of arrests of young Black and Hispanic men being stopped on the suspicion of having a weapon, and then found with small amounts of marijuana. Acknowledging the potentially lifelong impairment of employment opportunities that result from such arrests, some persons have urged reductions in stop-and-frisk tactics, or have supported decriminalization of possession of small amounts of marijuana. *E.g.*, Thomas Kaplan, *Cuomo Seeks Cut in Frisk Arrests*, *N.Y. Times*, June 4, 2012, at A1. Michelle Alexander argues that U.S. incarceration policy has produced a *de facto* caste system in which large numbers of Black men have lost a variety

of civil rights (e.g., voting and gun rights). See Alexander, *supra*. The federal courts have begun to grapple with the issue. See *Floyd v. City of New York*, 2013 WL4046209 (S.D.N.Y. Aug. 12, 2013) (holding that New York city’s stop-and-frisk policy violated Fourth and Fourteenth Amendment rights of African-American and Hispanic plaintiffs; ordering extensive injunctive relief); *In re Reassignment of cases*, 736 F.3d 118 (2d cir. Nov. 13, 2013) (staying the order of injunctive relief and reassigning the “stop and frisk” civil rights litigation to a different federal district judge). Do you think the costs of stop and frisk (in terms of higher arrest rates for young minority men) are worth the benefits? Would you favor decriminalizing possession of small amounts of marijuana discovered in these stops? Recall from Chapter 8 that the Gun Control Act prohibits illegal drug users from purchasing firearms. See 18 U.S.C. §922(d)(3). If marijuana possession were decriminalized by the state of New York, would marijuana users be permitted to purchase firearms? As a policy matter, *should* marijuana use strip a person of the right to have arms for self-defense?

4. Are you surprised to learn that the Black homicide rate has been high in the past as well as the present? The city-specific homicide data from 1925 do not specify whether firearms were used. Compare the data from 1925 to Claire Johnson’s suggestion that the increase in the D.C. homicide rate was due to the increased availability of a new class of more powerful semi-automatic firearms. Note also Johnson’s suggestion to limit manufacturing or sale of 9mm handguns in response to the fact that the 9mm is a gun commonly used by D.C. criminals. What are the strengths and weaknesses of such an approach? Assuming no political obstacles, can you devise a better policy?

I. Youth Crime

Young people, especially young men, are the predominant perpetrators of violent crime. Indeed, one explanation for the drop in violent crime in the 1980s was the aging of the large cohort of Baby Boomers out of this crime-prone age range. The Tables below illustrate these trends. The first, Table 12-16, shows [Arrests for Violent Crime by Age](#). Table 12-17 shows ten-year arrest trends for violent crime and gun crime by gender. Table 12-18 shows murder *victims* by age for 2010.

Like adult crime, juvenile crime is predominately perpetrated by males. [According to the FBI](#), “[n]early three-quarters (74.5 percent) of the persons arrested in the Nation during 2010 were males. They accounted for 80.5 percent of persons arrested for violent crime and 62.4 percent of persons arrested for property crime.” Table 12-17 shows arrest rates by gender for juveniles and adults.

Table 12-18 breaks out murder victims by age and instrument used.

The vast majority of young murderers, like their older counterparts, commit other types of crimes as well. A Los Angeles study showed that gangs had a role in 80 percent of all adolescent homicides. Office of Juv. Just. & Delinq. Prevention, [Report to Congress on Juvenile Violence Research](#) 14 (July 1999).

TABLE 12-17
Arrest Rates by Gender

Ten-Year Arrest Trends
by Sex, 2001–2010

[8,726 agencies; 2010 estimated population 194,771,628; 2009 estimated population 180,336,272]

| Offense charged | Male | | | | | | Female | | | | | |
|------------------------------------------------------|------------------|------------------|----------------|----------------|----------------|----------------|------------------|------------------|----------------|----------------|----------------|----------------|
| | Total | | | Under 18 | | | Total | | | Under 18 | | |
| | 2001 | 2010 | Percent change | 2001 | 2010 | Percent change | 2001 | 2010 | Percent change | 2001 | 2010 | Percent change |
| TOTAL¹ | 6,568,579 | 6,122,413 | -6.8 | 998,238 | 733,955 | -26.5 | 1,899,440 | 2,099,055 | +10.5 | 362,657 | 306,498 | -15.5 |
| Murder and nonnegligent manslaughter | 7,011 | 6,276 | -10.5 | 738 | 561 | -24.0 | 1,060 | 751 | -29.2 | 84 | 66 | -21.4 |
| Forcible rape | 16,552 | 12,475 | -24.6 | 2,748 | 1,793 | -34.8 | 193 | 113 | -41.5 | 40 | 28 | -30.0 |
| Robbery | 61,315 | 62,383 | +1.7 | 14,556 | 15,091 | +3.7 | 6,978 | 9,010 | +29.1 | 1,390 | 1,750 | +25.9 |
| Aggravated assault | 243,381 | 208,367 | -14.4 | 31,502 | 21,276 | -32.5 | 61,311 | 60,145 | -1.9 | 9,500 | 6,885 | -27.5 |
| Burglary | 158,422 | 159,813 | +0.9 | 50,286 | 37,216 | -26.0 | 25,654 | 30,627 | +19.4 | 7,043 | 5,262 | -25.3 |
| Larceny-theft | 468,276 | 454,079 | -3.0 | 138,056 | 99,440 | -28.0 | 272,887 | 359,414 | +31.7 | 88,961 | 84,714 | -4.8 |
| Motor vehicle theft | 71,385 | 36,238 | -49.2 | 22,939 | 7,846 | -65.8 | 13,918 | 7,887 | -43.3 | 4,768 | 1,560 | -67.3 |
| Arson | 9,369 | 6,237 | -33.4 | 5,254 | 2,720 | -48.2 | 1,690 | 1,277 | -24.4 | 648 | 412 | -36.4 |
| Violent crime ² | 328,259 | 289,501 | -11.8 | 49,544 | 38,721 | -21.8 | 69,542 | 70,019 | +0.7 | 11,014 | 8,729 | -20.7 |
| Property crime ² | 707,452 | 656,367 | -7.2 | 216,535 | 147,222 | -32.0 | 314,149 | 399,205 | +27.1 | 101,420 | 91,948 | -9.3 |
| Other assaults | 624,982 | 603,501 | -3.4 | 102,570 | 86,903 | -15.3 | 194,814 | 226,024 | +16.0 | 47,612 | 47,517 | -0.2 |
| Forgery and counterfeiting | 43,623 | 29,878 | -31.5 | 2,457 | 761 | -69.0 | 29,625 | 17,967 | -39.4 | 1,392 | 285 | -79.5 |
| Fraud | 116,414 | 69,079 | -40.7 | 3,666 | 2,360 | -35.6 | 100,089 | 51,685 | -48.4 | 1,912 | 1,274 | -33.4 |
| Embezzlement | 6,940 | 5,538 | -20.2 | 763 | 180 | -76.4 | 6,750 | 5,763 | -14.6 | 545 | 130 | -76.1 |
| Stolen property; buying, receiving, possessing | 62,888 | 50,045 | -20.4 | 14,109 | 8,240 | -41.6 | 12,664 | 12,229 | -3.4 | 2,385 | 1,610 | -32.5 |
| Vandalism | 144,703 | 131,349 | -9.2 | 59,745 | 43,037 | -28.0 | 27,876 | 30,319 | +8.8 | 9,026 | 7,289 | -19.2 |
| Weapons; carrying, possessing, etc. | 91,440 | 89,693 | -1.9 | 20,676 | 17,607 | -14.8 | 8,283 | 8,374 | +1.1 | 2,432 | 2,108 | -13.3 |
| Prostitution and commercialized vice | 16,245 | 10,844 | -33.2 | 255 | 112 | -56.1 | 31,011 | 25,961 | -16.3 | 627 | 542 | -13.6 |
| Sex offenses (except forcible rape and prostitution) | 52,815 | 42,833 | -18.9 | 10,982 | 7,346 | -33.1 | 4,448 | 3,256 | -26.8 | 903 | 710 | -21.4 |
| Drug abuse violations | 786,831 | 816,307 | +3.7 | 103,696 | 89,066 | -14.1 | 174,225 | 198,076 | +13.7 | 19,990 | 18,098 | -9.5 |
| Gambling | 4,365 | 2,614 | -40.1 | 376 | 234 | -37.8 | 548 | 432 | -21.2 | 26 | 10 | -61.5 |
| Offenses against the family and children | 68,431 | 52,116 | -23.8 | 3,881 | 1,468 | -62.2 | 20,097 | 17,455 | -13.1 | 2,216 | 807 | -63.6 |
| Driving under the influence | 715,610 | 639,291 | -10.7 | 10,287 | 5,424 | -47.3 | 144,788 | 196,727 | +35.9 | 2,222 | 1,814 | -18.4 |
| Liquor laws | 307,444 | 230,230 | -25.1 | 61,056 | 38,030 | -37.7 | 95,624 | 91,025 | -4.8 | 29,237 | 23,531 | -19.5 |
| Drunkenness | 344,649 | 308,784 | -10.4 | 10,348 | 6,503 | -37.2 | 55,186 | 65,102 | +18.0 | 2,812 | 2,356 | -16.2 |
| Disorderly conduct | 287,509 | 251,193 | -12.6 | 74,442 | 58,055 | -22.0 | 93,137 | 99,580 | +6.9 | 31,452 | 31,285 | -0.5 |
| Vagrancy | 13,512 | 16,981 | +25.7 | 1,305 | 1,142 | -12.5 | 9,376 | 4,271 | -50.4 | 369 | 348 | -5.7 |
| All other offenses (except traffic) | 1,777,951 | 1,782,491 | +0.3 | 185,029 | 137,766 | -25.5 | 483,874 | 557,410 | +15.2 | 65,631 | 47,932 | -27.0 |
| Suspicion | 1,772 | 427 | -75.9 | 407 | 68 | -83.3 | 528 | 110 | -79.2 | 213 | 18 | -91.5 |
| Curfew and loitering law violations | 66,516 | 43,778 | -34.2 | 66,516 | 43,778 | -34.2 | 29,434 | 18,175 | -38.3 | 29,434 | 18,175 | -38.3 |

¹ Does not include suspicion.

² Violent crimes are offenses of murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault. Property crimes are offenses of burglary, larceny-theft, motor vehicle theft, and arson.

TABLE 12-18
Murder Victims by Age and Weapon Type

| Age | Weapons | | | | | | | | | | | Other weapon or weapon not stated ² |
|-----------------------------------|----------------------------|--------------|-------------------------------------|---------------------------------------------------------------|-------------------------------------------------------------------|-----------|------------|-----------|-----------|---------------|--------------|---------------------------------------------------------|
| | Total murder victims | Firearms | Knives or cutting instruments | Blunt objects (clubs, hammers, etc.) ¹ | Personal weapons (hands, fists, feet, etc.) ¹ | Poison | Explosives | Fire | Narcotics | Strangulation | Asphyxiation | |
| Total | 12,996 | 8,775 | 1,704 | 540 | 745 | 11 | 4 | 74 | 39 | 122 | 98 | 884 |
| Percent distribution ³ | 100.0 | 67.5 | 13.1 | 4.2 | 5.7 | 0.1 | * | 0.6 | 0.3 | 0.9 | 0.8 | 6.8 |
| Under 18 ⁴ | 1,277 | 632 | 95 | 66 | 253 | 5 | 1 | 19 | 17 | 6 | 23 | 160 |
| Under 22 ⁴ | 3,172 | 2,199 | 281 | 89 | 286 | 5 | 1 | 21 | 19 | 14 | 27 | 230 |
| 18 and over ⁴ | 11,566 | 8,067 | 1,597 | 469 | 476 | 6 | 3 | 50 | 21 | 113 | 72 | 692 |
| Infant (under 1) | 186 | 5 | 3 | 19 | 86 | 1 | 0 | 1 | 5 | 1 | 14 | 51 |
| 1 to 4 | 313 | 38 | 19 | 26 | 143 | 2 | 1 | 6 | 3 | 2 | 5 | 68 |
| 5 to 8 | 85 | 33 | 9 | 5 | 16 | 0 | 0 | 4 | 3 | 1 | 3 | 11 |
| 9 to 12 | 43 | 20 | 8 | 2 | 3 | 2 | 0 | 3 | 3 | 1 | 0 | 1 |
| 13 to 16 | 363 | 298 | 27 | 7 | 3 | 0 | 0 | 3 | 3 | 1 | 1 | 20 |
| 17 to 19 | 1,231 | 1,008 | 133 | 16 | 22 | 0 | 0 | 2 | 0 | 1 | 2 | 47 |
| 20 to 24 | 2,256 | 1,822 | 224 | 45 | 41 | 0 | 0 | 6 | 3 | 12 | 6 | 97 |
| 25 to 29 | 1,964 | 1,544 | 221 | 35 | 51 | 0 | 1 | 9 | 1 | 14 | 2 | 86 |
| 30 to 34 | 1,541 | 1,175 | 166 | 43 | 49 | 0 | 0 | 4 | 6 | 17 | 7 | 74 |
| 35 to 39 | 1,072 | 745 | 150 | 40 | 43 | 0 | 0 | 4 | 2 | 10 | 13 | 65 |
| 40 to 44 | 882 | 553 | 168 | 37 | 36 | 0 | 0 | 5 | 1 | 10 | 7 | 65 |
| 45 to 49 | 838 | 475 | 156 | 55 | 59 | 2 | 0 | 2 | 3 | 9 | 4 | 73 |
| 50 to 54 | 686 | 338 | 144 | 62 | 61 | 0 | 0 | 5 | 2 | 14 | 8 | 52 |
| 55 to 59 | 473 | 255 | 89 | 42 | 35 | 2 | 0 | 4 | 1 | 7 | 5 | 33 |
| 60 to 64 | 325 | 151 | 76 | 25 | 25 | 0 | 0 | 2 | 0 | 4 | 7 | 35 |
| 65 to 69 | 189 | 80 | 39 | 18 | 18 | 0 | 1 | 2 | 0 | 4 | 1 | 26 |
| 70 to 74 | 137 | 71 | 19 | 18 | 11 | 0 | 1 | 2 | 0 | 2 | 2 | 11 |
| 75 and over | 259 | 88 | 41 | 40 | 27 | 2 | 0 | 5 | 2 | 9 | 8 | 37 |
| Unknown | 153 | 76 | 12 | 5 | 16 | 0 | 0 | 5 | 1 | 3 | 3 | 32 |

¹ Pushed is included in personal weapons.

Fifty-seven percent of homicides perpetrated by male youths are committed in the course of another crime, such as robbery or rape. Ann Loper & Dewey Cornell, *Homicide by Juvenile Girls*, 5 J. Child & Fam. Stud. 323, 326, 330 (1996) (also noting that males constitute 94 percent of juvenile homicide perpetrators). Mental illness also plays a significant role in juvenile murderers. One study claims that 89 percent of juvenile murderers had psychotic symptoms. Wade Myers & Kerrilyn Scott, *Psychotic and Conduct Disorder Symptoms in Juvenile Murderers*, 2 Homicide Stud. 160 (1998) (also noting prior studies showing young murderers to be distinguished by “neurological abnormalities,” “criminally violent family members,” and “gang membership”).

NOTES & QUESTIONS

1. As discussed in Chapter 8, minors are barred by federal law from purchasing firearms from retail gun dealers. State laws vary widely, but all of them at least allow minors to possess firearms under the authority of a responsible adult. Some minors illegally purchase firearms that have been stolen or acquired by other illegal means. State Child Access Prevention (CAP) laws in some states require gun owners to follow various “safe storage” requirements to prevent juvenile access. See Section D of this chapter. What measures would you propose to prevent juvenile criminals from getting access to firearms? To prevent juveniles in general from getting access? Consider whether *Heller* (Chapter 9), or lower court interpretations of *Heller*, would impede any of your proposals. What Second Amendment rights (if any) do persons under 18 years of age have?
2. Do you think the issue of minors’ access to firearms should be treated differently in urban areas than in rural areas? Consider the data in the Appendix on the rate of juvenile gun crime in rural versus urban states. You may also want to look again at the decision in *United States v. Moore*, 109 F.3d 1456 (9th Cir. 1997) (en banc) (Chapter 8), and the notes and questions following that case.
3. The constitutional right to keep and bear arms almost surely would prohibit gun laws that discriminated on the basis of gender. But one recent case upheld the federal ban on individuals between 18 and 20 purchasing handguns from a retailer. *NRA v. BATFE*, 700 F.3d 185 (5th Cir. 2012), *reh’g en banc denied*, 714 F.3d 334 (5th Cir. 2013). *But cf. id.*, at 714 F.3d at 335-47 (Jones, J., joined by five other judges, dissenting from denial of rehearing en banc). If it can be demonstrated empirically that people in that age range are more likely to commit gun crimes, would you agree that limiting their access to guns in this way is constitutional? Now consider data showing that men, especially young men, are far more likely than women to commit gun crimes. Would this fact justify requiring young men to go through a more rigorous process than women before obtaining a handgun, or a license to carry a handgun? Would that be substantially different from current laws

barring felons from possessing guns? From laws allowing felons to go through a rigorous process to have their right to arms reinstated?

J. Recent Downward Trend of Violent Crime and Growth of the American Firearms Inventory

1. Some Statistics on the Decline in Violent Crime

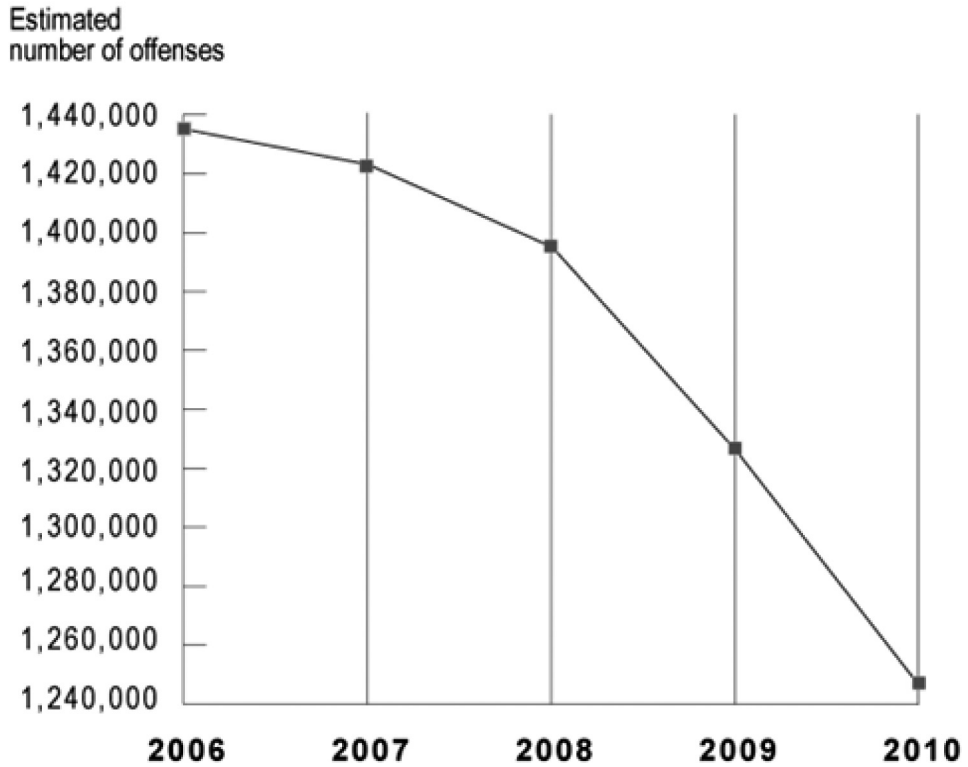
It is tautological that in a truly gun-free environment there can be no gun crime. This sometimes fuels the intuition that increases in the number of guns in the general population will necessarily lead to roughly proportionate increases in gun crime. That intuition turns out to be wrong. This is evident from both recent and long-term trends. In the near past, the use of firearms in violent crime has trended downward along with the rate of violent crime in general. The FBI reports that in 2010, an estimated 1,246,248 violent crimes occurred nationwide, a decrease of 6.0 percent from the 2009 estimate. When considering five- and ten-year trends, the 2010 estimated violent crime total had fallen 13.2 percent below the 2006 level and 13.4 percent below the 2001 level. In general, violent crime and gun crime in the United States have declined significantly since the early 1990s.

Meanwhile, firearm ownership in the United States is at an all-time high. Estimates put the gun stock as high as 323 million firearms in private hands. (See Section B of this chapter.) New gun purchases, measured by ATF instant-check data, have been at record levels. In early 2012, for example, the publicly traded Sturm, Ruger, & Co., one of the largest American manufacturers of firearms, depleted its inventory of guns due to high demand, and notified wholesalers that it would suspend taking orders until it could build enough new guns to replenish inventory. See James Detar, *Restocked Sturm Ruger Resumes Taking Gun Orders*, Investors.com, May 21, 2012. As shown in Table 12-19 below, violent crime during this period of rapid growth in the civilian gun inventory went in the opposite direction. The recent downward trend extends to nonviolent crime. Table 12-20 shows declining rates of property crime trending similar to the rates of violent crime over the last ten years.

As discussed in Section I, the crime rate varies substantially by age, with younger people more prone to criminal activity. Juvenile offenders are a particular concern. The relative trend for juvenile crime is illustrated in Table 12-21, which shows arrests in 2010 compared to 2001, broken out by crime category and by age.

TABLE 12-19
Violent Crime Trend

Violent Crime Offense Figure
Five-Year Trend, 2006-2010



Source: FBI, UCR. See also [Expanded Homicide Data Table 7](#), [Robbery Table 3](#), and the [Aggravated Assault Table](#).

TABLE 12-20
Property Crime Trend

Crime in the United States
by Volume and Rate per 100,000 Inhabitants, 1991-2010

| Year | Population ¹ | Violent crime | | | Murder and nonnegligent manslaughter | | | Murder and nonnegligent manslaughter | | | Robbery | | | Aggravated assault | | | Property crime | | | Burglary | | | Larceny-theft | | | Motor vehicle theft | | | |
|-------------------|-------------------------|---------------|-------|--------|--------------------------------------|---------|------|--------------------------------------|-------|-----------|---------|------------|---------|--------------------|---------|-----------|----------------|-----------|-------|-----------|-------|-----------|---------------|-----------|-------|---------------------|-------|-----------|-------|
| | | Volume | Rate | Rate | Volume | Rate | Rate | Volume | Rate | Rate | Volume | Rate | Rate | Volume | Rate | Rate | Volume | Rate | Rate | Volume | Rate | Rate | Volume | Rate | Rate | Volume | Rate | Rate | |
| 1991 | 252,153,092 | 1,911,767 | 758.2 | 24,703 | 9.8 | 106,593 | 42.3 | 687,732 | 272.7 | 1,092,739 | 433.4 | 12,961,116 | 5,140.2 | 3,157,150 | 1,252.1 | 8,142,228 | 3,229.1 | 1,661,738 | 659.0 | 1,661,738 | 659.0 | 1,661,738 | 659.0 | 1,661,738 | 659.0 | 1,661,738 | 659.0 | 1,661,738 | 659.0 |
| 1992 | 255,029,699 | 1,932,274 | 757.7 | 23,760 | 9.3 | 109,062 | 42.8 | 674,478 | 263.7 | 1,126,974 | 441.9 | 12,505,917 | 4,903.7 | 2,979,884 | 1,168.4 | 7,915,199 | 3,103.6 | 1,610,834 | 631.6 | 1,610,834 | 631.6 | 1,610,834 | 631.6 | 1,610,834 | 631.6 | 1,610,834 | 631.6 | 1,610,834 | 631.6 |
| 1993 | 257,782,608 | 1,956,017 | 747.1 | 24,526 | 9.5 | 106,014 | 41.1 | 659,870 | 256.0 | 1,135,607 | 440.5 | 12,218,777 | 4,740.0 | 2,834,808 | 1,092.7 | 7,820,909 | 3,033.9 | 1,563,660 | 606.3 | 1,563,660 | 606.3 | 1,563,660 | 606.3 | 1,563,660 | 606.3 | 1,563,660 | 606.3 | 1,563,660 | 606.3 |
| 1994 | 260,327,021 | 1,857,670 | 713.6 | 23,326 | 9.0 | 102,216 | 39.3 | 618,949 | 237.8 | 1,113,179 | 427.6 | 12,131,873 | 4,660.2 | 2,712,774 | 1,042.1 | 7,879,812 | 3,026.9 | 1,539,287 | 591.3 | 1,539,287 | 591.3 | 1,539,287 | 591.3 | 1,539,287 | 591.3 | 1,539,287 | 591.3 | 1,539,287 | 591.3 |
| 1995 | 262,803,276 | 1,798,792 | 684.5 | 21,606 | 8.2 | 97,470 | 37.1 | 580,509 | 220.9 | 1,099,207 | 418.3 | 12,063,935 | 4,590.5 | 2,593,784 | 987.0 | 7,997,710 | 3,043.2 | 1,472,441 | 560.3 | 1,472,441 | 560.3 | 1,472,441 | 560.3 | 1,472,441 | 560.3 | 1,472,441 | 560.3 | 1,472,441 | 560.3 |
| 1996 | 265,238,572 | 1,688,540 | 636.6 | 19,645 | 7.4 | 96,252 | 36.3 | 535,594 | 201.9 | 1,037,049 | 391.0 | 11,805,323 | 4,451.0 | 2,506,400 | 945.0 | 7,994,685 | 2,980.3 | 1,394,238 | 525.7 | 1,394,238 | 525.7 | 1,394,238 | 525.7 | 1,394,238 | 525.7 | 1,394,238 | 525.7 | 1,394,238 | 525.7 |
| 1997 | 267,883,607 | 1,636,096 | 611.0 | 18,208 | 6.8 | 96,153 | 35.9 | 498,534 | 186.2 | 1,033,201 | 382.1 | 11,538,475 | 4,316.3 | 2,460,576 | 918.8 | 7,743,760 | 2,891.8 | 1,354,189 | 505.7 | 1,354,189 | 505.7 | 1,354,189 | 505.7 | 1,354,189 | 505.7 | 1,354,189 | 505.7 | 1,354,189 | 505.7 |
| 1998 | 270,248,003 | 1,533,887 | 567.6 | 16,974 | 6.3 | 93,144 | 34.5 | 447,186 | 165.5 | 976,583 | 361.4 | 10,951,827 | 4,023.5 | 2,332,735 | 863.2 | 7,376,311 | 2,729.5 | 1,242,781 | 459.9 | 1,242,781 | 459.9 | 1,242,781 | 459.9 | 1,242,781 | 459.9 | 1,242,781 | 459.9 | 1,242,781 | 459.9 |
| 1999 | 272,690,813 | 1,426,044 | 523.0 | 15,522 | 5.7 | 89,411 | 32.8 | 409,371 | 150.1 | 911,740 | 334.3 | 10,208,334 | 3,743.6 | 2,100,739 | 770.4 | 6,955,520 | 2,550.7 | 1,152,075 | 422.5 | 1,152,075 | 422.5 | 1,152,075 | 422.5 | 1,152,075 | 422.5 | 1,152,075 | 422.5 | 1,152,075 | 422.5 |
| 2000 | 281,421,906 | 1,425,486 | 506.5 | 15,586 | 5.5 | 90,178 | 32.0 | 408,016 | 145.0 | 911,706 | 324.0 | 10,182,584 | 3,618.3 | 2,050,992 | 728.8 | 6,971,590 | 2,477.3 | 1,160,002 | 412.2 | 1,160,002 | 412.2 | 1,160,002 | 412.2 | 1,160,002 | 412.2 | 1,160,002 | 412.2 | 1,160,002 | 412.2 |
| 2001 ² | 285,317,559 | 1,439,480 | 504.5 | 16,037 | 5.6 | 90,863 | 31.8 | 423,557 | 148.5 | 909,023 | 318.6 | 10,437,189 | 3,658.1 | 2,116,531 | 741.8 | 7,092,267 | 2,485.7 | 1,228,391 | 430.5 | 1,228,391 | 430.5 | 1,228,391 | 430.5 | 1,228,391 | 430.5 | 1,228,391 | 430.5 | 1,228,391 | 430.5 |
| 2002 | 287,973,924 | 1,433,677 | 494.4 | 16,229 | 5.6 | 95,235 | 33.1 | 420,806 | 146.1 | 891,407 | 309.5 | 10,455,277 | 3,630.6 | 2,151,252 | 747.0 | 7,057,379 | 2,450.7 | 1,246,646 | 432.9 | 1,246,646 | 432.9 | 1,246,646 | 432.9 | 1,246,646 | 432.9 | 1,246,646 | 432.9 | 1,246,646 | 432.9 |
| 2003 | 290,788,976 | 1,383,676 | 475.8 | 16,528 | 5.7 | 93,883 | 32.3 | 414,235 | 142.5 | 859,030 | 295.4 | 10,442,862 | 3,591.2 | 2,154,834 | 741.0 | 7,026,802 | 2,416.5 | 1,261,226 | 433.7 | 1,261,226 | 433.7 | 1,261,226 | 433.7 | 1,261,226 | 433.7 | 1,261,226 | 433.7 | 1,261,226 | 433.7 |
| 2004 | 293,656,842 | 1,390,088 | 463.2 | 16,148 | 5.5 | 95,089 | 32.4 | 401,470 | 136.7 | 847,381 | 288.6 | 10,174,754 | 3,431.5 | 2,155,448 | 726.9 | 6,957,089 | 2,362.3 | 1,237,851 | 421.5 | 1,237,851 | 421.5 | 1,237,851 | 421.5 | 1,237,851 | 421.5 | 1,237,851 | 421.5 | 1,237,851 | 421.5 |
| 2005 | 296,507,061 | 1,390,745 | 469.0 | 16,740 | 5.6 | 94,347 | 31.8 | 417,438 | 140.8 | 862,220 | 290.8 | 10,174,754 | 3,431.5 | 2,155,448 | 726.9 | 6,783,447 | 2,287.8 | 1,235,859 | 416.8 | 1,235,859 | 416.8 | 1,235,859 | 416.8 | 1,235,859 | 416.8 | 1,235,859 | 416.8 | 1,235,859 | 416.8 |
| 2006 ³ | 299,398,484 | 1,435,123 | 479.3 | 17,309 | 5.8 | 94,472 | 31.6 | 449,246 | 150.0 | 874,096 | 292.0 | 10,019,601 | 3,346.6 | 2,194,993 | 733.1 | 6,626,363 | 2,213.2 | 1,198,245 | 400.2 | 1,198,245 | 400.2 | 1,198,245 | 400.2 | 1,198,245 | 400.2 | 1,198,245 | 400.2 | 1,198,245 | 400.2 |
| 2007 ³ | 301,621,157 | 1,422,970 | 471.8 | 17,128 | 5.7 | 92,160 | 30.6 | 447,324 | 148.3 | 866,358 | 287.2 | 9,882,212 | 3,276.4 | 2,190,198 | 726.1 | 6,591,542 | 2,185.4 | 1,100,472 | 364.9 | 1,100,472 | 364.9 | 1,100,472 | 364.9 | 1,100,472 | 364.9 | 1,100,472 | 364.9 | 1,100,472 | 364.9 |
| 2008 ³ | 304,059,724 | 1,394,461 | 458.6 | 16,465 | 5.4 | 90,750 | 29.8 | 443,563 | 145.9 | 843,683 | 277.5 | 9,774,152 | 3,214.6 | 2,228,887 | 733.0 | 6,586,206 | 2,166.1 | 959,059 | 315.4 | 959,059 | 315.4 | 959,059 | 315.4 | 959,059 | 315.4 | 959,059 | 315.4 | 959,059 | 315.4 |
| 2009 ³ | 307,006,550 | 1,325,896 | 431.9 | 15,399 | 5.0 | 89,241 | 29.1 | 408,742 | 133.1 | 812,514 | 264.7 | 9,337,060 | 3,041.3 | 2,203,313 | 717.7 | 6,338,095 | 2,064.5 | 795,652 | 259.2 | 795,652 | 259.2 | 795,652 | 259.2 | 795,652 | 259.2 | 795,652 | 259.2 | 795,652 | 259.2 |
| 2010 | 308,745,538 | 1,246,248 | 403.6 | 14,748 | 4.8 | 84,767 | 27.5 | 367,832 | 119.1 | 778,901 | 252.3 | 9,082,887 | 2,941.9 | 2,159,878 | 699.6 | 6,185,867 | 2,003.5 | 737,142 | 238.8 | 737,142 | 238.8 | 737,142 | 238.8 | 737,142 | 238.8 | 737,142 | 238.8 | 737,142 | 238.8 |

Source: FBI UCR.

TABLE 12-21
Arrest Trends by Crime Category and Age

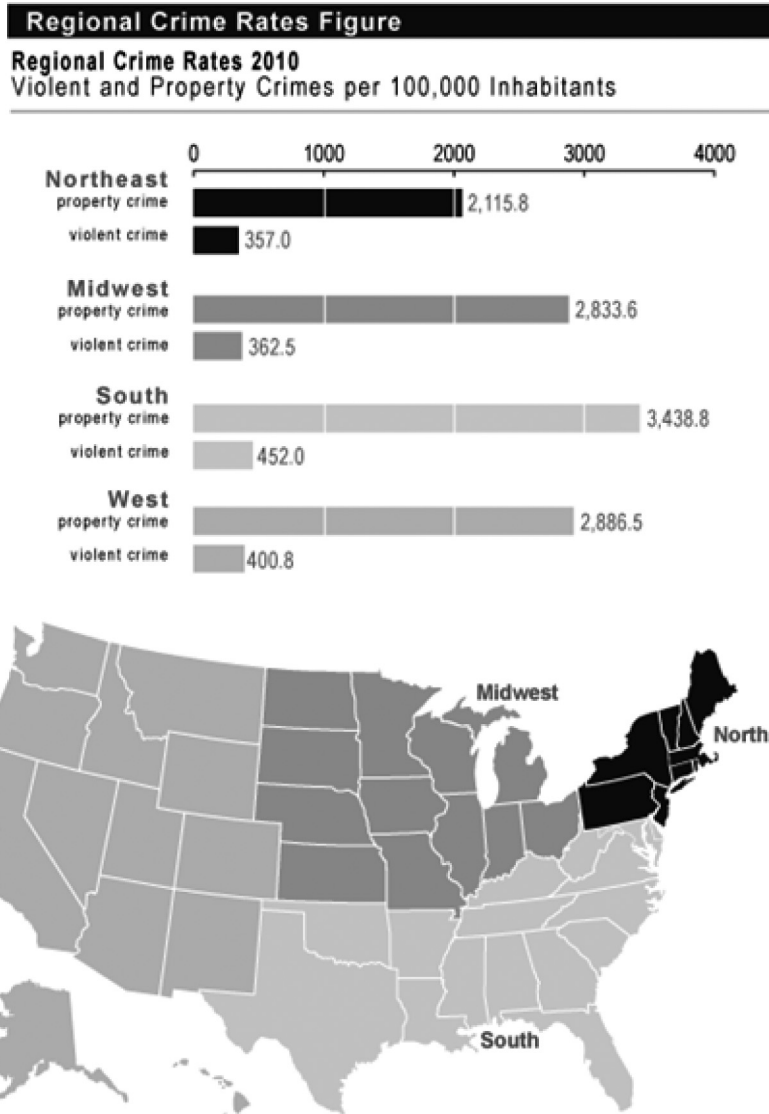
| Ten-Year Arrest Trends | <i>Number of persons arrested</i> | | | | | | | | | | | | | | |
|------------------------------------------------|------------------------------------------------------------------------------------------------|------------------|----------------|------------------|------------------|------------------------------|------------------|------------------|----------------|------------------|---------------------------------|----------------|--------------|--------------|----------------|
| | <i>Total all ages</i> | | | | | <i>Under 18 years of age</i> | | | | | <i>18 years of age and over</i> | | | | |
| | 2001 | 2010 | Percent change | 2001 | 2010 | Percent change | 2001 | 2010 | Percent change | 2001 | 2010 | Percent change | 2001 | 2010 | Percent change |
| Totals, 2001-2010 | [8,726 agencies; 2010 estimated population 194,771,628; 2001 estimated population 180,336,272] | | | | | | | | | | | | | | |
| TOTAL | 8,468,019 | 8,221,468 | -2.9 | 1,360,895 | 1,040,453 | -23.5 | 7,107,124 | 7,181,015 | +1.0 | 7,107,124 | 7,181,015 | +1.0 | 6,400 | 6,400 | -11.7 |
| Murder and nonnegligent manslaughter | 8,071 | 7,027 | -12.9 | 822 | 627 | -23.7 | 7,249 | 7,249 | -23.7 | 7,249 | 7,249 | -23.7 | 6,400 | 6,400 | -11.7 |
| Forcible rape | 16,745 | 12,588 | -24.8 | 2,788 | 1,821 | -34.7 | 13,957 | 10,767 | -22.9 | 13,957 | 10,767 | -22.9 | 10,767 | 10,767 | -22.9 |
| Robbery | 68,293 | 71,393 | +4.5 | 15,946 | 16,841 | +5.6 | 52,347 | 54,552 | +4.2 | 52,347 | 54,552 | +4.2 | 54,552 | 54,552 | +4.2 |
| Aggravated assault | 304,692 | 268,512 | -11.9 | 41,002 | 28,161 | -31.3 | 263,690 | 240,351 | -8.9 | 263,690 | 240,351 | -8.9 | 240,351 | 240,351 | -8.9 |
| Burglary | 184,076 | 190,440 | +3.5 | 57,329 | 42,478 | -25.9 | 126,747 | 147,962 | +16.7 | 126,747 | 147,962 | +16.7 | 147,962 | 147,962 | +16.7 |
| Larceny-theft | 741,163 | 813,493 | +9.8 | 227,017 | 184,154 | -18.9 | 514,146 | 629,339 | +22.4 | 514,146 | 629,339 | +22.4 | 629,339 | 629,339 | +22.4 |
| Motor vehicle theft | 85,303 | 44,125 | -48.3 | 27,707 | 9,406 | -66.1 | 57,596 | 34,719 | -39.7 | 57,596 | 34,719 | -39.7 | 34,719 | 34,719 | -39.7 |
| Arson | 11,059 | 7,514 | -32.1 | 5,902 | 3,132 | -46.9 | 5,157 | 4,382 | -15.0 | 5,157 | 4,382 | -15.0 | 4,382 | 4,382 | -15.0 |
| Violent crime ² | 397,801 | 359,520 | -9.6 | 60,558 | 47,450 | -21.6 | 337,243 | 312,070 | -7.5 | 337,243 | 312,070 | -7.5 | 312,070 | 312,070 | -7.5 |
| Property crime ² | 1,021,601 | 1,055,572 | +3.3 | 317,955 | 239,170 | -24.8 | 703,646 | 816,402 | +16.0 | 703,646 | 816,402 | +16.0 | 816,402 | 816,402 | +16.0 |
| Other assaults | 819,796 | 829,525 | +1.2 | 150,182 | 134,420 | -10.5 | 669,614 | 695,105 | +3.8 | 669,614 | 695,105 | +3.8 | 695,105 | 695,105 | +3.8 |
| Forgery and counterfeiting | 73,248 | 47,845 | -34.7 | 3,849 | 1,046 | -72.8 | 69,399 | 46,799 | -32.6 | 69,399 | 46,799 | -32.6 | 46,799 | 46,799 | -32.6 |
| Fraud | 216,503 | 120,764 | -44.2 | 5,578 | 3,634 | -34.9 | 210,925 | 117,130 | -44.5 | 210,925 | 117,130 | -44.5 | 117,130 | 117,130 | -44.5 |
| Embezzlement | 13,690 | 11,301 | -17.5 | 1,308 | 310 | -76.3 | 12,382 | 10,991 | -11.2 | 12,382 | 10,991 | -11.2 | 10,991 | 10,991 | -11.2 |
| Stolen property; buying, receiving, possessing | 75,552 | 62,274 | -17.6 | 16,494 | 9,850 | -40.3 | 59,058 | 52,424 | -11.2 | 59,058 | 52,424 | -11.2 | 52,424 | 52,424 | -11.2 |
| Vandalism | 172,579 | 161,668 | -6.3 | 68,771 | 50,326 | -26.8 | 103,808 | 111,342 | +7.3 | 103,808 | 111,342 | +7.3 | 111,342 | 111,342 | +7.3 |
| Weapons; carrying, possessing, etc. | 99,723 | 98,067 | -1.7 | 23,108 | 19,715 | -14.7 | 76,615 | 78,352 | +2.3 | 76,615 | 78,352 | +2.3 | 78,352 | 78,352 | +2.3 |

Number of persons arrested

| <i>Offense charged</i> | <i>Total all ages</i> | | | | <i>Under 18 years of age</i> | | | | <i>18 years of age and over</i> | | | |
|------------------------------------------------------|-----------------------|-------------|-----------------------|-------------|------------------------------|-----------------------|-------------|-------------|---------------------------------|-------------|-------------|-----------------------|
| | <i>2001</i> | <i>2010</i> | <i>Percent change</i> | <i>2001</i> | <i>2010</i> | <i>Percent change</i> | <i>2001</i> | <i>2010</i> | <i>Percent change</i> | <i>2001</i> | <i>2010</i> | <i>Percent change</i> |
| | | | | | | | | | | | | |
| Prostitution and commercial-ized vice | 47,256 | 36,805 | -22.1 | 882 | 654 | -25.9 | 46,374 | 36,151 | -22.0 | | | |
| Sex offenses (except forcible rape and prostitution) | 57,263 | 46,089 | -19.5 | 11,885 | 8,056 | -32.2 | 45,378 | 38,033 | -16.2 | | | |
| Drug abuse violations | 961,056 | 1,014,383 | +5.5 | 123,686 | 107,164 | -13.4 | 837,370 | 907,219 | +8.3 | | | |
| Gambling | 4,913 | 3,046 | -38.0 | 402 | 244 | -39.3 | 4,511 | 2,802 | -37.9 | | | |
| Offenses against the family and children | 88,528 | 69,571 | -21.4 | 6,097 | 2,275 | -62.7 | 82,431 | 67,296 | -18.4 | | | |
| Driving under the influence | 860,398 | 836,018 | -2.8 | 12,509 | 7,238 | -42.1 | 847,889 | 828,780 | -2.3 | | | |
| Liquor laws | 403,068 | 321,255 | -20.3 | 90,293 | 61,561 | -31.8 | 312,775 | 259,694 | -17.0 | | | |
| Drunkenness | 399,835 | 373,886 | -6.5 | 13,160 | 8,859 | -32.7 | 386,675 | 365,027 | -5.6 | | | |
| Disorderly conduct | 380,646 | 350,773 | -7.8 | 105,894 | 89,340 | -15.6 | 274,752 | 261,433 | -4.8 | | | |
| Vagrancy | 16,788 | 21,252 | +26.6 | 1,674 | 1,490 | -11.0 | 15,114 | 19,762 | +30.8 | | | |
| All other offenses (except traffic) | 2,261,825 | 2,339,901 | +3.5 | 250,660 | 185,698 | -25.9 | 2,011,165 | 2,154,203 | +7.1 | | | |
| Suspicion | 2,300 | 537 | -76.7 | 620 | 86 | -86.1 | 1,680 | 451 | -73.2 | | | |
| Curfew and loitering law violations | 95,950 | 61,953 | -35.4 | 95,950 | 61,953 | -35.4 | - | - | - | | | |

¹Does not include suspicion.

Another interesting aspect of the violent crime rate is the variation from region to region. Every state has its own laws that might play a role in violent crime trends. Variations broken out by region may also suggest broader cultural influences.

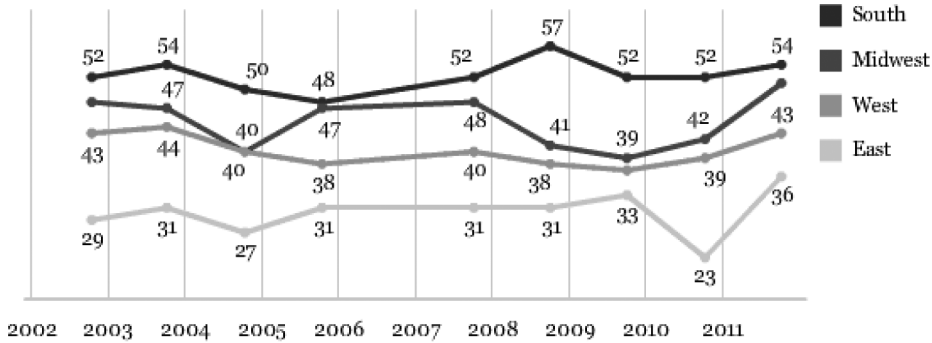


Source: FBI, UCR.

Regional cultural differences are multifaceted. Regional variations in reported gun ownership are one potential measure of those cultural differences. The following chart reflects a recent estimate by the Gallup organization of the rate of gun ownership by region.

Gun in Household, by Region

% Saying there is a gun in their home/on their property



Trend from annual Gallup Crime survey, conducted in October

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The simple intuition that the presence of more guns equals more gun crime is refuted by the simultaneous decline of gun crime in recent decades while the American gun inventory has increased to record levels. The divergence between the civilian firearms inventory and the rate of violent crime is starkly illustrated by measurements shown in Table 12-22. As illustrated, since 1948, the rate of gun ownership per 100,000 of population has increased steadily. In contrast, over this same period, the rate of gun homicide has risen and fallen in a pattern that shows no relation to the theory that more guns should lead to proportionately more homicide.

2. Some Theories about the Cause of the Decline in Violent Crime

The cause of the decline in violent crime in the past two decades is unclear. Theories of causation vary widely. In a relatively recent treatment, Alfred Blumstein and Joel Wallman collect diverse assessments from social scientists about why crime has declined. *The Crime Drop in America* (Alfred Blumstein & Joel Wallman eds., rev. ed. 2006).

Blumstein and Wallman note that prior to 1965, the U.S. homicide rate was always under 5 per 100,000 population. (Depending how the rate is calculated.) The rate rose steadily starting around 1965, and after 1970 ranged between 8 and 10 per 100,000 for the next 20 years. Within this range, the murder rate trended down from 1980 to 1985 and up again from 1985 to 1991. The upward trend from 1985-1991 corresponded to a rise in violence among males under age 20 and a particularly sharp rise among young Black males. Beginning in 1992, homicide rates declined steadily, and by 1999 the homicide rate was back to less than 6 per 100,000 — the pre-1965 rate. Alfred Blumstein & Joel Wallman, *The*

TABLE 12-22
Rate of Gun Ownership vs. Rate of Gun Homicide

| Year | Total gun stock | Fatal gun accidents | FGAs for ages 0-14 | Population (in 1,000s) | Guns per capita | Population age 0 to 14 | Fatal gun accidents per 100,000 persons | FGAs per capita for ages 0-14 | Murder and non-negligent manslaughter per 100,000 persons |
|------|-----------------|---------------------|--------------------|------------------------|-----------------|------------------------|-----------------------------------------|-------------------------------|-----------------------------------------------------------|
| 1948 | 53,203,031 | 2,270 | | 146,091 | 0.36 | | 1.55 | | 5.6 |
| 1949 | 55,406,460 | 2,326 | | 148,666 | 0.37 | | 1.56 | | 5.1 |
| 1950 | 57,902,081 | 2,174 | 451 | 151,871 | 0.38 | 40,853,299 | 1.43 | 1.10 | 5 |
| 1951 | 59,988,664 | 2,247 | 520 | 153,970 | 0.39 | 42,064,604 | 1.46 | 1.24 | 4.7 |
| 1952 | 61,946,315 | 2,210 | 519 | 156,369 | 0.40 | 43,376,761 | 1.41 | 1.20 | 4.9 |
| 1953 | 63,945,235 | 2,277 | 498 | 158,946 | 0.40 | 44,759,194 | 1.43 | 1.11 | 4.6 |
| 1954 | 65,558,052 | 2,281 | 527 | 161,881 | 0.40 | 46,265,590 | 1.41 | 1.14 | 4.6 |
| 1955 | 67,387,135 | 2,120 | 522 | 165,058 | 0.41 | 47,866,820 | 1.28 | 1.09 | 4.3 |
| 1956 | 69,435,933 | 2,202 | 508 | 168,078 | 0.41 | 49,448,548 | 1.31 | 1.03 | 4.4 |
| 1957 | 71,416,509 | 2,369 | 549 | 171,178 | 0.42 | 51,079,515 | 1.38 | 1.07 | 4.3 |
| 1958 | 73,163,450 | 2,172 | 538 | 174,153 | 0.42 | 52,698,698 | 1.25 | 1.02 | 4.3 |
| 1959 | 75,338,188 | 2,258 | 542 | 177,136 | 0.43 | 54,345,325 | 1.27 | 1.00 | 4.5 |
| 1960 | 77,501,065 | 2,334 | 544 | 179,972 | 0.43 | 55,971,292 | 1.30 | 0.97 | 5.1 |
| 1961 | 79,536,616 | 2,204 | 507 | 182,976 | 0.43 | 56,045,549 | 1.20 | 0.90 | 4.8 |
| 1962 | 81,602,984 | 2,092 | 456 | 185,739 | 0.44 | 56,018,882 | 1.13 | 0.81 | 4.6 |
| 1963 | 83,834,808 | 2,263 | 538 | 188,434 | 0.44 | 55,946,055 | 1.20 | 0.96 | 4.6 |
| 1964 | 86,357,701 | 2,275 | 500 | 191,085 | 0.45 | 55,835,037 | 1.19 | 0.90 | 4.9 |
| 1965 | 89,478,922 | 2,344 | 494 | 193,457 | 0.46 | 55,618,888 | 1.21 | 0.89 | 5.1 |
| 1966 | 93,000,989 | 2,558 | 535 | 195,499 | 0.48 | 55,287,117 | 1.31 | 0.97 | 5.6 |
| 1967 | 97,087,751 | 2,896 | 598 | 197,375 | 0.49 | 54,889,988 | 1.47 | 1.09 | 6.2 |
| 1968 | 102,302,251 | 2,394 | 527 | 199,312 | 0.51 | 54,491,901 | 1.20 | 0.97 | 6.9 |
| 1969 | 107,111,820 | 2,309 | 455 | 201,298 | 0.53 | 54,088,773 | 1.15 | 0.84 | 7.3 |
| 1970 | 111,917,733 | 2,406 | 506 | 203,798.7 | 0.55 | 53,802,863 | 1.18 | 0.94 | 7.9 |
| 1971 | 116,928,781 | 2,360 | 481 | 206,817.5 | 0.57 | 53,834,598 | 1.14 | 0.89 | 8.6 |
| 1972 | 122,304,980 | 2,442 | 554 | 209,274.9 | 0.58 | 53,699,935 | 1.17 | 1.03 | 9 |
| 1973 | 128,016,673 | 2,618 | 541 | 211,349.2 | 0.61 | 53,450,214 | 1.24 | 1.01 | 9.4 |

| Year | Total gun stock | Fatal gun accidents | FGAs for ages 0-14 | Population (in 1,000s) | Guns per capita | Population age 0 to 14 | Fatal gun accidents per 100,000 persons | FGAs per capita for ages 0-14 | Murder and non-negligent manslaughter per 100,000 persons |
|------|-----------------|---------------------|--------------------|------------------------|-----------------|------------------------|-----------------------------------------|-------------------------------|-----------------------------------------------------------|
| 1974 | 134,587,281 | 2,513 | 532 | 213,333.6 | 0.63 | 53,162,742 | 1.18 | 1.00 | 9.8 |
| 1975 | 139,915,125 | 2,380 | 495 | 215,456.6 | 0.65 | 52,894,592 | 1.10 | 0.94 | 9.6 |
| 1976 | 145,650,789 | 2,059 | 428 | 217,553.9 | 0.67 | 52,604,523 | 0.95 | 0.81 | 8.8 |
| 1977 | 150,748,000 | 1,982 | 392 | 219,760.9 | 0.69 | 52,325,064 | 0.90 | 0.75 | 8.8 |
| 1978 | 156,164,518 | 1,806 | 349 | 222,098.2 | 0.70 | 52,059,828 | 0.81 | 0.67 | 9 |
| 1979 | 161,888,861 | 2,004 | 372 | 224,568.6 | 0.72 | 51,523,398 | 0.89 | 0.72 | 9.7 |
| 1980 | 167,681,587 | 1,955 | 316 | 227,224.7 | 0.74 | 51,368,905 | 0.86 | 0.62 | 10.2 |
| 1981 | 173,262,755 | 1,871 | 298 | 229,465.7 | 0.76 | 51,275,045 | 0.82 | 0.58 | 9.8 |
| 1982 | 178,218,890 | 1,756 | 279 | 231,664.4 | 0.77 | 51,367,319 | 0.76 | 0.54 | 9.1 |
| 1983 | 182,273,263 | 1,695 | 243 | 233,792.0 | 0.78 | 51,458,409 | 0.73 | 0.47 | 8.3 |
| 1984 | 186,683,867 | 1,668 | 287 | 235,824.9 | 0.79 | 51,580,345 | 0.71 | 0.56 | 7.9 |
| 1985 | 190,658,136 | 1,649 | 278 | 237,923.7 | 0.80 | 51,615,831 | 0.69 | 0.54 | 8 |
| 1986 | 194,182,072 | 1,452 | 234 | 240,132.8 | 0.81 | 51,592,128 | 0.60 | 0.45 | 8.6 |
| 1987 | 198,526,508 | 1,440 | 247 | 242,288.9 | 0.82 | 51,965,425 | 0.59 | 0.48 | 8.3 |
| 1988 | 203,306,821 | 1,501 | 277 | 244,499.0 | 0.83 | 52,603,938 | 0.61 | 0.53 | 8.5 |
| 1989 | 208,489,609 | 1,489 | 273 | 246,819.2 | 0.84 | 53,404,219 | 0.60 | 0.51 | 8.7 |
| 1990 | 212,823,547 | 1,416 | 236 | 249,438.7 | 0.85 | 54,065,132 | 0.57 | 0.44 | 9.4 |
| 1991 | 216,695,946 | 1,441 | 227 | 252,127.4 | 0.86 | 55,352,258 | 0.57 | 0.41 | 9.8 |
| 1992 | 222,067,343 | 1,409 | 216 | 254,994.5 | 0.87 | 56,297,147 | 0.55 | 0.38 | 9.3 |
| 1993 | 228,660,966 | 1,521 | 205 | 257,746.1 | 0.89 | 57,202,683 | 0.59 | 0.36 | 9.5 |
| 1994 | 235,604,001 | 1,356 | 185 | 260,289.2 | 0.91 | 57,918,481 | 0.52 | 0.32 | 9 |
| 1995 | 240,599,526 | 1,225 | 181 | 262,764.9 | 0.92 | 58,379,928 | 0.47 | 0.31 | 8.2 |
| 1996 | 245,003,546 | 1,134 | 138 | 265,189.8 | 0.92 | 58,850,406 | 0.43 | 0.23 | 7.4 |
| 1997 | 249,261,384 | 981 | 142 | 267,743.6 | 0.93 | 59,217,153 | 0.37 | 0.24 | 6.8 |
| 1998 | 253,771,440 | 866 | 121 | 270,248.0 | 0.94 | 59,659,176 | 0.32 | 0.20 | 6.3 |
| 1999 | 258,490,668 | 824 | 88 | 272,690.8 | 0.95 | 59,955,368 | 0.30 | 0.15 | 5.7 |
| 2000 | 263,208,364 | 776 | 86 | 281,421.9 | 0.94 | 60,253,375 | 0.28 | 0.14 | 5.5 |
| 2001 | 267,335,304 | 802 | 72 | 285,317.6 | 0.94 | 60,434,835 | 0.28 | 0.12 | 5.6 |

| Year | Total gun stock | Fatal gun accidents | FGAs for ages 0-14 | Population (in 1,000s) | Guns per capita | Population age 0 to 14 | Fatal gun accidents per 100,000 persons | FGAs per capita for ages 0-14 | Murder and non-negligent manslaughter per 100,000 persons |
|------|-----------------|---------------------|--------------------|------------------------|-----------------|------------------------|-----------------------------------------|-------------------------------|-----------------------------------------------------------|
| 2002 | 272,180,680 | 762 | 60 | 287,973.9 | 0.95 | 60,646,433 | 0.26 | 0.10 | 5.6 |
| 2003 | 276,813,674 | 730 | 56 | 290,809.8 | 0.95 | 60,737,916 | 0.25 | 0.09 | 5.7 |
| 2004 | 281,683,638 | 649 | 63 | 293,655.4 | 0.96 | 60,821,996 | 0.22 | 0.10 | 5.5 |
| 2005 | 286,837,125 | 789 | 75 | 296,507,061 | 0.97 | 60,953,039 | 0.27 | 0.12 | 5.6 |
| 2006 | 292,555,450 | 642 | 54 | 299,398,484 | 0.978 | 61,022,964 | 0.21 | 0.08 | 5.8 |
| 2007 | 299,017,274 | 613 | 65 | 301,621,157 | 0.99 | 61,294,588 | 0.20 | 0.11 | 5.7 |
| 2008 | 305,894,116 | 592 | 62 | 304,059,724 | 1.01 | 61,569,505 | 0.19 | 0.10 | 5.4 |
| 2009 | 314,862,296 | 554 | 48 | 307,006,550 | 1.03 | 61,882,854 | 0.18 | 0.08 | 5.0 |
| 2010 | 322,863,994 | | | 308,745,538 | 1.05 | 61,227,213 | | | 4.8 |
| 2011 | 332,223,910 | | | | | | | | |

Sources: Fatal gun accidents from Centers for Disease Control, *Compressed Mortality File*, and Gary Kleck, Targeting Guns: Firearms and Their Control 323-24 (1997). The gun supply figures through 1994 are from Kleck, Targeting Guns at 96-97 (1997) (providing citations for all the data). Additions to the gun supply from 1995 through 2009 are from the 2012 edition of ATF's *Commerce in Firearms in the United States* exhibits 1-3, plus (for 2011 only) the interim edition of the 2011 ATF *Annual Firearms Manufacture and Export Report*. The 2005-09 figures on homicide rates are from FBI, *Uniform Crime Reports*; Sourcebook of Criminal Justice Statistics, *Estimated number and rate (per 100,000 inhabitants) of offenses known to police, by offense, United States 1960-2010*. Population age 0-14 for 2005-09 from Census Bureau, *Annual Estimates of the Resident Population by Sex and Five-Year Age Groups, Homicides for 1948-59*, FBI Data compilation (on Disk).

Caveats: The above figures for total firearm supply do not account for removal of firearms from the gun supply: for example, guns that are seized and destroyed by law enforcement, or guns that become inoperable because of rust or wear, and are not repaired. Nor do the above figures account for the very large number of firearms for which manufacturing, import, and export reports are not required by the 1968 Gun Control Act (black-powder guns, homemade guns, some modern replicas of pre-1898 guns).

Recent Rise and Fall of American Violence, in *id.* at 4. (As of 2010, it is down to 4.8. See Table 12-22.)

Blumstein and Wallman attribute these shifts to several factors. They attribute the increased violence that started around 1965 to the social turbulence of the times—for example, the tumult of the fight for civil rights, protest of the Vietnam War, and a concomitant decline in the perceived legitimacy of social and governmental authority. The upward trend of crime after 1985 is probably explained at least partly by the crack epidemic.

So why has crime declined since the early 1990s?

Garen Wintemute argues that changes in gun laws are a factor. “Handgun violence took a sharp downturn at just about the time the Brady Bill became effective.” Garen Wintemute, *Guns and Gun Violence*, in Blumstein & Wallman, *Crime Drop in America*, *supra*, at 5. Wintemute is a longtime proponent of tough gun laws who has argued forcefully that firearms crime is substantially driven by the gun supply. See, e.g., Garen Wintemute, *Gun Control Laws Can Reduce Violent Crime*, in James D. Torr, *Crime and Criminals: Opposing Viewpoints* (2004) (“Not surprisingly, the more guns there are, the more gun crime there is.”).

William Spelman suggests that *incarceration* has contributed to the recent decline in crime. He offers a number of estimates of elasticity of crime due to incarceration and concludes that “prison buildup suppressed the yearly crime rate by 35 percent on average and that perhaps 25% of the crime drop is attributable to incarceration.” He questions, however, whether the benefits of this reduction in crime are justified by the social and financial costs of “such massive use of prisons.” Alfred Blumstein & Joel Walman, *The Recent Rise and Fall of American Violence* (summarizing others’ work), in Blumstein & Wallman, *Crime Drop in America*, *supra*, at 6.

Along with Richard Rosenfeld, Spelman also examines how the violent crime pattern of persons over age 25 has differed from that of younger people. While the homicide rate for younger offenders rose sharply beginning in 1985, the over-25 homicide rate declined steadily through the 1980s. This decline for the over-25 age group held true across racial groups. The greatest decline within this group was for domestic homicides. Rosenfeld claims that a significant portion of this drop is attributable to a *decline in the marriage rate*. The unexplained balance he claims is attributable to a civilizing cultural shift away from interpersonal violence. *Id.* at 7.

Bruce Johnson, Andrew Golub, and Eloise Dunlap describe a *decline in crack-related drug violence* beginning in the early 1990s. They claim that the major cause for the declining influence of crack and attendant violence is an attitudinal and cultural shift of inner-city youth away from crack. They speculate that marijuana has replaced crack as the drug of choice in this environment and that marijuana use and marketing generate less violence. Bruce Johnson, Andrew Golub, & Eloise Dunlap, *The Rise and Decline of Hard Drugs, Drug Markets, and Violence in Inner-City New York*, in Blumstein & Wallman, *supra*, at 164.

John Eck and Edward McGuire evaluate claims that *innovations in policing*—for example, more police, targeting of drugs and guns, zero tolerance policing—explain the decline in violent crime. Overall, they “found it difficult to substantiate the often strong and enthusiastic claims made for particular policing strategies,” sometimes because the strategy was implemented after crime already had declined and sometimes because multiple strategies occurred simultaneously and thus precise causation could not be discerned. The set of

tactics deployed against the drug trade before the drop in crime has the strongest claims of efficacy. John Eck & Edward Mcguire, *Have Changes in Policing Reduced Violent Crime?: An Assessment of the Evidence*, in Blumstein & Wallaman, *supra*, at 207.

Jeffrey Grogger argues that economic incentives explain both the rise and the fall of crack-related violence. Initially, in the 1980s, the comparatively high economic return from dealing crack drew thousands of young men into that trade. Violence was a tool of the trade, deployed to settle debts and mark or take territory. However, this rising violence also raised the risk and cost of the business and ultimately had a deterrent effect that pushed young men out of the trade by the mid-1990s. Jeffrey Grogger, *An Economic Model of Recent Trends in Violence*, in Blumstein & Wallaman, *supra*, at 266.

James Alan Fox theorizes that *demography* allows rough predictions and speculations about the cause of changes in violent crime rates. Thus, it was predictable, all else being equal, that violent crime would peak in the 1980s and then decline as the baby boomers moved out of the high crime age. James Alan Fox, *Demographics and U.S. Homicide*, in Blumstein & Wallaman, *supra*, at 288.

NOTES & QUESTIONS

1. Besides the causes suggested by the authors in the Blumstein and Wallman book, can you think of other causes for crime decline in the last two decades?
2. Of the explanations proposed in the Blumstein and Wallman book, which seem convincing? Why? What other things might account for the trend.
3. Do any of the findings on crime trends and gun ownership surprise you? To the degree that the reported results conflict with your expectations, to what do you attribute your initial view? What was the source of your information prior to examining this data? Has any of the data changed your mind? Try asking three of your colleagues outside this class for their opinions on what caused the recent drop in crime. Compare your results in class.
4. In contrast to the more instrumentalist explanations summarized above, Harvard evolutionary psychologist Steven Pinker tracks a worldwide decline in violence and argues that mankind generally is evolving away from violence. Steven Pinker, *The Better Angels of Our Nature: Why Violence Has Declined* (2011). Is the experience of the last century consistent with his theory?

K. Does Gun Ownership Reduce Crime?

We have already discussed the general issue of defensive gun uses and the debate over how many DGUs actually occur. But in addition to the general DGU surveys, there are several, more textured, assessments that are important

to forming a view about the relative costs and benefits of firearms ownership and use. This section treats those issues in five subsections.

- Subsection 1 describes a CDC survey of firearm use by householders against burglars, and summarizes studies of the impact that firearm ownership has on the rate of “hot” burglaries.
- Subsection 2 summarizes a widely cited study suggesting that criminals are deterred from attempting crimes by the knowledge or suspicion that their potential victims are armed.
- Subsection 3 describes several natural deterrence experiments that resulted from well-publicized initiatives to arm ordinary citizens.
- Subsection 4 discusses how police performance may affect both the crime rate and the decision of the law-abiding to own firearms.
- Subsection 5 deals with a question that continues to be tested in the courts: the carrying of firearms outside the home. Despite the signals from *Heller* (Chapter 9), whether the Second Amendment right to bear arms extends outside the home remains unsettled in the lower courts. Subsection 5 addresses the complex empirical debate about the costs and benefits of allowing law-abiding people to carry guns in public for self-defense.

1. Firearms Ownership as a Factor Reducing Home Invasion Burglary

The only national study of how frequently firearms are used against burglaries was conducted by the Centers for Disease Control and Prevention (CDC). In 1994, random digit dialing phone calls were made throughout the United States, resulting in 5,238 interviews. The interviewees were asked about use of a firearm in a burglary situation during the previous 12 months. Extrapolating the polling sample to the national population, the researchers estimated that in the previous 12 months, there were approximately 1,896,842 incidents in which a householder retrieved a firearm but did not see an intruder. There were an estimated 503,481 incidents in which the armed householder *did* see the burglar, and in 497,646 of those incidents, the burglar was scared away by the presence of the firearm. Robert Ikeda et al., *Estimating Intruder-Related Firearms Retrievals in U.S. Households, 1994*, 12 *Violence & Victims* 363 (1997).

In the United States, a household member is present during 27.6 percent of burglaries of homes. If a household member is present during a burglary, then in 26 percent of such burglaries, a household member will be the victim of a violent crime. Shannan M. Catalano, *Victimization During Household Burglary* (Bureau of Justice Statistics, NCJ 227379, Sept. 30, 2010).

Why do American burglars generally avoid homes where someone is present? Why are most American burglaries during the daytime, when the home is likely to be unoccupied? Criminologists attribute the prevalence of daytime burglary to burglars’ fear of confronting an armed occupant; burglars report that they avoid late-night home invasions because “[t]hat’s the way you get yourself shot.” George Rengert & John Wasilchick, *Suburban Burglary: A Tale of Two Suburbs* 33 (2d ed. 2000) (study of Delaware County, Pa., and

Greenwich, Conn.); *see also* John Conklin, *Robbery and the Criminal Justice System* 85 (1972) (study of Massachusetts inmates, reporting that some gave up burglary because of “the risk of being trapped in the house by the police or an armed occupant”).

The most thorough study of burglary patterns was a St. Louis survey of 105 currently active burglars. The researchers observed, “One of the most serious risks faced by residential burglars is the possibility of being injured or killed by occupants of a target. Many of the offenders we spoke to reported that this was far and away their greatest fear.” As a result, most burglars tried to avoid entry when an occupant might be home. Richard Wright & Scott Decker, *Burglars on the Job: Streetlife and Residential Break-Ins* 112-13 (1994).

Burglars in other nations seem to behave very differently. The [2010/11 British Crime Survey](#) found that 59 percent of burglaries involved an occupied home. The *Wall Street Journal* reported:

Compared with London, New York is down-right safe in one category: burglary. In London, where many homes have been burglarized half a dozen times, and where psychologists specialize in treating children traumatized by such thefts, the rate is nearly twice as high as in the Big Apple. And burglars here increasingly prefer striking when occupants are home, since alarms and locks tend to be disengaged and intruders have little to fear from unarmed residents.

Kevin Heilliker, *Pistol-Whipped: As Gun Crimes Rise, Britain Is Considering Cutting Legal Arsenal*, *Wall St. J.*, Apr. 19, 1994, at A1.

In the Netherlands, 48 percent of residential burglaries involved an occupied home. Richard Block, *The Impact of Victimization, Rates and Patterns: A Comparison of the Netherlands and the United States*, in *Victimization and Fear of Crime: World Perspectives* 26 tbl. 3-5 (Richard Block ed., 1984). In the Republic of Ireland, criminologists report that burglars have little reluctance about attacking an occupied residence. *See* Claire Nee & Maxwell Taylor, *Residential Burglary in the Republic of Ireland*, in *Whose Law and Order? Aspects of Crime and Social Control in Irish Society* 143 (Mike Tomlinson et al. eds., 1988). In Toronto, where handguns are legal but rare, an older study revealed that 44 percent of home burglaries take place when the victim is home. *See* Irwin Waller & Norman Okhiro, *Burglary: The Victim and the Public* 31 (1978).

An American burglar’s risk of being shot while invading an occupied home is greater than his risk of going to prison. Presuming that the risk of prison deters some potential burglars, the risk of armed defenders may deter even more. James Wright, Peter Rossi, & Kathleen Daly, *Under the Gun: Weapons, Crime and Violence in America* 139-40 (1983) (Nat’l Inst. of Just. study); *see also* Gary Kleck, *Crime Control Through the Private Use of Armed Force*, 35 *Soc. Probs.* 1, 12, 15-16 (1988).

David Kopel argues that because burglars do not know *which* homes have a gun, people who do not own guns enjoy substantial free-rider benefits because of the deterrent effect from the known existence of many homes that do keep arms. David Kopel, *Lawyers, Guns, and Burglars*, 43 *Ariz. L. Rev.* 345, 363-66 (2001).

In response to Kopel’s article, Philip Cook and Jens Ludwig conducted a study that found that burglary rates are higher in counties where gun

ownership is higher. Kopel responded with various methodological criticisms, such as the proxy that Cook and Ludwig had used to measure county-level gun ownership. He also argued that Cook & Ludwig's result are not inconsistent with home invasion deterrence: widespread gun ownership may displace burglary from occupied dwellings to unoccupied ones; and at the same time, the presence of a stealable gun (with no one home) may induce burglary because guns are portable and are valuable on the black market. See Philip Cook & Jens Ludwig, *Guns & Burglary*, and David Kopel, *Comment*, both in *Evaluating Gun Policy* (Jens Ludwig & Philip Cook eds., 2003)

NOTES & QUESTIONS

1. Considering the data already provided about the costs of firearms, do you think the claimed deterrence of home invasion burglary is a sufficient off-setting benefit to justify private arms ownership in America? Consider also the additional benefits described in the other sections of this chapter.
2. Do you consider burglary a crime of violence, against which armed (and potentially lethal) self-defense is always legitimate? Sometimes legitimate? Do you trust people to make a judgment about when armed self-defense is appropriate against a burglar? If not, what is the alternative? The textbook's discussion of the Castle Doctrine (Chapters 1.D.10, 2.D.2.C, 6.G) provides some legal perspectives.

2. Studies of Criminals and Deterrence

James Wright and Peter Rossi produced a famous study for the National Institute of Justice in 1986, the first comprehensive study of criminals and guns. Interviewing felony prisoners in 11 prisons in 10 states, Wright and Rossi discovered that:

- 34 percent of the felons reported personally having been “scared off, shot at, wounded or captured by an armed victim.”
- 8 percent said the experience had occurred “many times.”
- 69 percent reported that the experience had happened to another criminal whom they knew personally.
- 39 percent had personally decided not to commit a crime because they thought the victim might have a gun.
- 56 percent said that a criminal would not attack a potential victim who was known to be armed.
- 74 percent agreed with the statement that “[o]ne reason burglars avoid houses where people are at home is that they fear being shot.”

James Wright & Peter Rossi, *Armed and Considered Dangerous: A Survey of Felons and Their Firearms* 146, 155 (expanded ed. 1994).

In the interviews, “the highest concern about confronting an armed victim was registered by felons from states with the greatest relative number of privately owned firearms.” *Id.* at 151. Wright and Rossi concluded, “[T]he major effects of partial or total handgun bans would fall more on the shoulders of the ordinary gun-owning public than on the felonious gun abuser of the sort studied here. . . . [I]t is therefore also possible that one side consequence of such measures would be some loss of the crime-thwarting effects of civilian firearms ownership.” *Id.* at 237.

NOTES & QUESTIONS

1. Wright and Rossi’s findings suggest that many criminals are *rational actors*, in the sense an economist gives that term. They make choices about committing crimes in a way that maximizes expected benefits, minimizes the risks they run, or both. Thus, they prefer soft targets (such as unarmed victims) and avoid hard ones. This is not to say that all criminals always act rationally. Some are mentally ill; others may be extremely intoxicated by drugs or alcohol, and others may sometimes act on hot-blooded emotion. To what extent do you think that the behavior of potential criminals can be influenced by the risk of long-term consequences (prison) or short-term ones (being shot)?

3. Real-World Experiments in Gun Possession as a Deterrent to Crime

In October 1966, the Orlando Police Department began conducting highly publicized firearms safety training for women, after observing that many women were arming themselves in response to a dramatic increase in sexual assaults in the area. Over the next year, Orlando rapes fell by 88 percent. Burglary fell by 25 percent. Not one of the 2,500 trained women actually fired her weapon. Gary Kleck and David Bordua contend, “It cannot be claimed that this was merely part of a general downward trend in rape, since the national rate was increasing at the time. No other U.S. city with a population over 100,000 experienced so large a percentage decrease in the number of rapes from 1966 to 1967. . . .” Gary Kleck & David Bordua, *The Factual Foundation for Certain Key Assumptions of Gun Control*, 5 *Law & Pol’y Q.* 271, 284 (1983); Gary Kleck, *Policy Lessons from Recent Gun Control Research*, 49 *J.L. & Contemp. Probs.* 35, 47 (1986). That same year, rape increased by 5 percent in Florida and by 7 percent nationally. See Don Kates, *The Value of Civilian Handgun Possession as a Deterrent to Crime or Defense Against Crime*, 18 *Am. J. Crim. L.* 113, 153 (1991).

Skeptical commentators argued that the drop in Orlando rapes was statistically insignificant, being within the range of possibly normal fluctuations. David McDowall et al., *General Deterrence through Civilian Gun Ownership*, 29 *Criminology* 541 (1991). However, the skeptics’ statistical model was such that even if gun-based deterrence had entirely eliminated *all* rapes in Orlando in 1966-67,

the model would still have declared that result to be statistically insignificant. Gary Kleck, *Targeting Guns: Firearms and Their Control* 181 (1997).

In March 1982, the Atlanta exurb of Kennesaw, Georgia, passed an ordinance requiring all residents (with exceptions, including conscientious objectors) to keep firearms in their homes. *Town to Celebrate Mandatory Arms*, N.Y. Times, Apr. 11, 1987, at 6. House burglaries fell from 65 per year to 26, and to 11 the following year. Kleck, *Crime Control*, 35 Soc. Probs. at 13-15. David McDowall contends that there was no statistically significant change in the Kennesaw burglary rate. David McDowall et al., *General Deterrence through Civilian Gun Ownership*, 29 *Criminology* 541 (1991). Kleck responds that McDowall's assessment improperly combined household burglaries (which did decline substantially) with other forms of burglary, such as unoccupied businesses. Kleck, *Point Blank: Guns and Violence in America* 136-38 (1991). For more on the meaning of statistical significance, see Online Chapter 14.B.

4. Police Response as a Factor in the Decision to Own a Firearm

The debate about the need for individual firearms often involves claims about the effectiveness and adequacy of police response to crime. Police obviously cannot be everywhere at once. The list below is a random sampling of reported response times, showing how long it takes the police to arrive after being dispatched for the highest-priority calls. The times do not include the time that the caller waits for the 911 operator to pick up, and then talks with the operator, and obviously does not include the time it takes to get to a phone and make the call. In Washington, D.C., in 2003, the average police response time for highest-priority emergency calls was 8 minutes and 25 seconds. *Ramsey Defends 911 Response*, Wash. Times, May 11, 2004, at A1. In Salt Lake City, 911 callers are frequently put on hold. Debbie Dujanovic, [911 Nightmare Uncovered in Investigative Report](#), KSL.com, Nov. 1, 2007. The average response time for Priority One calls (defined as life-threatening emergencies) in Atlanta and its three surrounding counties is 11.1 minutes. *911 Response Times: An I-Team Investigation*, Fox 5 Atlanta, (cached version available at <http://web.archive.org/web/20030220201600/http://www.fox5atlanta.com/iteam/911.html>). In Los Angeles, the average emergency response time is 10.5 minutes. *LA Police Average over 10 Minutes in Responding to 911 Calls*, A.P. wire, July 1, 2003; see also *Cop Response Slows*, L.A. Daily News, July 22, 2001 (median of 8 minutes, 30 seconds; average of 12.1 minutes). In New York City response time is 7.2 minutes for crimes in progress. *Mayor Bloomberg Releases Fiscal 2005 Mayor's Management Report*, US States News, Sept. 12, 2005. The *New York Times* reported that in Nassau County, New York, in 2003, 11 percent of 911 callers got a prerecorded message and soothing music, rather than a human operator. *Nassau 911 Callers Are Being Put on Hold*, N.Y. Times, Sept. 14, 2003. The average response time for crime in progress calls in Rochester, New York, was 14 minutes, 31 seconds. Brief of Amici Curiae International Law Enforcement Educators and Trainers Association et al., Supporting Respondent, *District of Columbia v. Heller*, 554 U.S. 570 (2008) at 20 (citing Tim Macaluso, *POLICE: East Side Response Times Too Slow?*, City Newspaper, June 20, 2007.) In Philadelphia the time for Priority One calls is just under 7 minutes. Howard

Goodman, *A System Geared to Preventing "Another Polec."* Phila. Inquirer, Aug. 3, 1998, at A1. The average in St. Petersburg, Florida, for Priority One (defined as "life-threatening") calls is 7 minutes, 5 seconds. Leanora Minai, *Is That Enough?*, St. Petersburg Times, Apr. 7, 2002, at 1B.

The issue of police response times does not arise, of course, in situations where a criminal is in control of a crime scene and does not permit his victim to call the police, and where neighbors are unavailable or unaware of the crime in progress.

NOTES & QUESTIONS

1. What would be an acceptable police response time? Assume you own a gun for self-defense. At what point, if any, would police response be so swift that you would choose to give up the option of a private firearm and rely on the police response?

5. Lawful Defensive Carry of Firearms

a. *Crime outside the Home*

Many gun owners wish to carry guns outside the home for self-defense. As discussed in Chapter 1, 42 states today provide a means by which most private citizens can exercise the choice to do so, typically by a "shall issue" system for issuing handgun carry permits to adults who pass a fingerprint-based background check and a safety training class. Many people who have carry permits do not carry all the time. Conversely, some otherwise law-abiding citizens are willing to carry handguns illegally when they cannot find a legal way to do so. The day-to-day decision to carry a gun (legally or illegally) is affected by a variety of factors, including the individual's assessment of the risk of being victimized by violent crime outside the home. Eighty-two percent of violent victimizations take place outside the victim's home. Bureau of Justice Statistics, *Criminal Victimization in the United States, 2008*, Statistical Tables, tbl. 61 (NCJ 231173, May 2011).

b. *Do Concealed-Carry Laws Affect the Crime Rate?*

Economist John Lott argues that one of the most substantial drivers of crime reduction is the proliferation of shall-issue concealed-carry licenses to law-abiding people. More guns in the hands of honest people in public spaces, says Lott, deters criminals and generates billions of dollars of benefits per year in avoided costs of crime. John Lott Jr., *More Guns Less Crime: Understanding Crime and Gun Control Laws* (3d ed. 2010). The majority of researchers who have tested Lott's hypothesis have at least partially agreed with him (finding some reduction in crime), while a significant minority have found that carry-licensing laws have no statistically discernible effect on crime.

The most influential of the latter group is the 2005 report from the National Research Council,² which assessed Lott’s claims. A six-member majority of the NRC panel concluded that the data were inadequate to conclude whether right-to-carry laws increased or decreased crime. One panelist, political scientist James Q. Wilson, filed a dissent. Dissents are rare on NRC studies, and Wilson had supported gun control measures in the past. See James Q. Wilson, *Just Take Away Their Guns*, N.Y. Times Mag., Mar. 20, 1994, at 47. Wilson is one of the most respected political scientists of recent decades. He is best known as the originator of the “Broken Windows” theory of crime control — that controlling small indicia of disorder (such as unrepaired broken windows) can have a strong effect in suppressing major crimes in a neighborhood. Wilson’s dissent and the majority’s response fairly capture the state of this debate.

James Q. Wilson, Dissent
in National Research Council,
Firearms and Violence: A Critical Review (2004) (App’x A)

The thrust of Chapter 6 of the committee’s report is that studies purporting to show a relationship between right-to-carry (RTC) laws and crime rates are fragile. Though I am not an econometrician, I am struck by the fact that most studies of the effect of policy changes on crime rates are fragile in this sense: Different authors produce different results, and sometimes contradictory ones. This has been true of studies of the effect on crime rates of incapacitation (that is, taking criminals off the street), deterrence (that is, increasing the likelihood of conviction and imprisonment), and capital punishment. In my view, committees of the National Research Council that have dealt with these earlier studies have attempted, not simply to show that different authors have reached different conclusions, but to suggest which lines of inquiry, including data and models, are most likely to produce more robust results.

That has not happened here. Chapter 6 seeks to show that fragile results exist but not to indicate what research strategies might improve our understanding of the effects, if any, of RTC laws. To do the latter would require the committee to analyze carefully not only the studies by John Lott but those done by both his supporters and his critics. Here, only the work by Lott and his coauthors is subject to close analysis.

If this analysis of Lott’s work showed that his findings are not supported by his data and models, then the conclusion that his results are fragile might be sufficient. But my reading of this chapter suggests that some of his results survive virtually every reanalysis done by the committee.

Lott argued that murder rates decline after the adoption of RTC laws even after allowing for the effect of other variables that affect crime rates. The committee has confirmed this. . . . This confirmation includes both the original data period (1977-1992) used by Lott and data that run through 2000. In view of the confirmation of the findings that shall-issue laws drive down

2. For more on the National Research Council, see The National Academies, National Research Council, About Us, <http://www.nationalacademies.org/about/index.html>.

the murder rate, it is hard for me to understand why these claims are called “fragile.”

The only exceptions to this confirmation are, to me, quite puzzling. Tables 6-5 and 6-6 suggest that RTC laws have no effect on murder rates when no control variables are entered into the equations. These control variables (which include all of the social, demographic, and public policies other than RTC laws that might affect crime rates) are essential to understanding crime. Suppose Professor Jones wrote a paper saying that increasing the number of police in a city reduced the crime rate and Professor Smith wrote a rival paper saying that cities with few police officers have low crime rates. Suppose that neither Jones nor Smith used any control variables, such as income, unemployment, population density, or the frequency with which offenders are sent to prison in reaching their conclusions. If such papers were published, they would be rejected out of hand by the committee for the obvious reason that they failed to supply a complete account of the factors that affect the crime rate. One cannot explain crime rates just by observing the number of police in a city any more than one can explain them just by noting the existence of RTC laws.

It is not enough to say that it is hard to know the right set of control variables without calling into question the use of economics in analyzing public policy questions. All control variables are based on past studies and reasonable theories; any given selection is best evaluated by testing various controls in one’s equations.

In addition, with only a few exceptions, the studies cited in Chapter 6, including those by Lott’s critics, do not show that the passage of RTC laws drives the crime rates up (as might be the case if one supposed that newly armed people went about looking for someone to shoot). The direct evidence that such shooting sprees occur is nonexistent. The indirect evidence, as found in papers by Black and Nagin and Ayres and Donohue [in Chapter 6], is controversial. Indeed, the Ayres and Donohue paper shows that there was a “statistically significant downward shift in the trend” of the murder rate (NRC Report, Chapter 6, page 135). This suggests to me that for people interested in RTC laws, the best evidence we have is that they impose no costs but may confer benefits. That conclusion might be very useful to authorities who contemplate the enactment of RTC laws.

Finally, the committee suggests that extending the Lott model to include data through 2000 may show no effect of RTC laws on murder rates if one analyzes the data on a year-by-year basis. I wish I knew enough econometrics to feel confident about this argument, but I confess that at first blush it strikes me as implausible. To me, Lott’s general argument is supported even though it is hard to assign its effect to a particular year. Estimating the effects of RTC laws by individual years reduces the number of observations and thus the likelihood of finding a statistically significant effect. It is possible that doing this is proper, but it strikes me that such an argument ought first to be tested in a peer-reviewed journal before it is used in this report as a sound strategy.

Even if the use of newer data calls into question the original Lott findings, a more reasonable conclusion is that Lott’s findings depend on crime rate trends. The committee correctly notes that between 1977 and 1992 crime rates were rising rapidly while between 1993 and 1997 they were declining. Lott’s original study was of the first time period. Suppose that his results are not as robust for

the second period. The committee concludes that this shows that his model suffers from “specification errors”. Another and to me more plausible conclusion is that the effect of RTC laws on some crime rates is likely to be greater when those rates are rising than when they are falling. When crime rates are rising, public policy interventions (including deterrence, incapacitation, and RTC laws) are likely to make a difference because they create obstacles to the market and cultural forces that are driving crime rates up. But when crime rates are falling, such interventions may make less of a difference because they will be overwhelmed by market and cultural changes that make crime less attractive. This may or may not be a reasonable inference, but it is worthy of examination.

In sum, I find that the evidence presented by Lott and his supporters suggests that RTC laws do in fact help drive down the murder rate, though their effect on other crimes is ambiguous.

Committee Response to Wilson’s Dissent

in National Research Council,

Firearms and Violence: A Critical Review (2004) (App’x B)

This response addresses Professor Wilson’s dissent from one aspect of the committee report. It is important to stress at the outset that his dissent focuses on one part of one chapter of the report. Except for the effects of right-to-carry laws on homicide, the entire committee is in agreement on the material in Chapter 6 and the report overall. In particular, the committee, including Wilson, found that “it is impossible to draw strong conclusions from the existing literature on the causal impact” of right-to-carry laws on violent and property crime in general and rape, aggravated assault, auto theft, burglary, and larceny in particular.

The only substantive issue on which the committee differed is whether the existing research supports the conclusion that right-to-carry laws substantially reduce murder. The report suggests that the scientific evidence is inconclusive. Wilson disagreed, arguing that virtually every estimate shows a substantial and statistically significant negative effect of right-to-carry laws on murder.

While it is true that most of the reported estimates are negative, several are positive and many are statistically insignificant. In addition, when we use Lott’s trend model but restrict the out years to five years or less the trends for murder become positive and those for other crimes remain negative. Therefore, the key question is how to reconcile the contrary findings or, conversely, how to explain why these particular positive, or negative, findings should be dismissed. Three sets of results discussed more fully in Chapter 6 provide support for the committee’s conclusion: Published studies, the committee’s analysis of control variables, and the committee’s analysis extending the time period.

1. Published studies. There is no question that the empirical results on the effects of right-to-carry laws on murder (and other crimes) are sensitive to seemingly small variations in data and specification. Indeed, Wilson agrees that a few studies find positive effects of right-to-carry laws on murder. We cite four studies . . . : Ayres and Donohue, Black and Nagin, Moody, and Plassmann and Tideman (cited in Chapter 6 of the NRC Report). There are almost certainly others.

The rest of the committee and Wilson agree that fragility does not prove that the results of any specific paper are incorrect. However, some of the published results must be incorrect because they are inconsistent with one another. The important question, therefore, is whether the correct results can be identified. The rest of the committee thinks that they cannot. Contrary to Wilson's claim, the committee did assess the existing body of empirical literature on right-to-carry laws (see the section beginning on page 127 and Tables 6-3 and 6-4). As described in the report, all of the empirical research on right-to-carry laws relies on the same conceptual and methodological ideas. Relative to the basic models estimated by Lott, some researchers used data from more counties and some from fewer; some used hybrid linear models while others used non-linear specifications; some provide state-specific estimates while most provide a single national estimate; some added control variables while others used relatively parsimonious specifications; and so forth. All of the studies described in the literature review made plausible cases for their choices of models and data. Wilson seems to argue that a careful evaluation of the literature would reveal which paper or papers obtained correct results, but he does not suggest the evaluation criteria. The rest of the committee does not think that application of any scientific criteria to existing papers would identify the effects of right-to-carry laws on crime.

2. Committee control variable analysis. Chapter 6 shows that when the trend and dummy variable models do not include demographic and socioeconomic covariates (but do include year and county dummy variables) the estimates are relatively small, positive in one case, and statistically insignificant in all cases. Contrary to Wilson's assertion, the chapter does not claim that this or any other specification is correct. Rather, this finding simply reveals that "detecting the effect, if any, of right-to-carry laws requires controlling for appropriate confounding variables." In light of the fragility revealed in the literature, the fundamental issue is which set of covariates is sufficient to identify the effects of right-to-carry laws on homicide and other crimes. The importance of controlling for the correct set of covariates is well known. In fact, much of the debate between Lott and his statistically oriented critics focuses on determining the correct set of control variables. Everyone (including Wilson and the rest of the committee) agrees that control variables matter, but there is disagreement on the correct set. Thus, the facts that there is no way to statistically test for the correct specification and that researchers using reasonable specifications find different answers are highly relevant. Given the existing data and methods, the rest of the committee sees little hope of resolving this fundamental statistical problem.

Furthermore, the example of the relationship between crime rates and policing in the dissent raises another problem. The usual way one proceeds in research is to estimate the relationship between two variables and if a significant relationship is found controls are introduced to test the relationship. As the dissent notes, these controls are selected based on reasonable theories and research. In this case, the bivariate relationship (between right to carry laws and crime) is small, positive in one case, and insignificant in all. This is not like the hypothesized conflicting bivariate findings in Wilson's police example. Thus the selection of controls in the analysis of right-to-carry laws is as difficult as the committee contends.

3. Committee trend model analysis. Wilson states that the trend model analysis in Table 6-7 estimates the effects of right-to-carry laws on a yearly basis, rather than a single trend. This is incorrect. The estimates reported in Table 6-7 are found using Lott's trend model with restrictions on the number of post-adoption years used in the analysis. If the model is correctly specified, this restriction should be inconsequential. However, we find substantial differences, especially for murder. In fact, when we restrict the number of post-adoption years to five or fewer, the estimates switch from negative to positive. Thus, Model 6.2 appears to be misspecified. Moreover, despite Wilson's assertion, these types of sensitivity test are commonly used in peer-reviewed journals and are suggested by Rosenbaum (2001) as a way to assess the robustness of an empirical model. Of course, results like those reported in Chapter 6 might often lead a paper to be rejected from a peer-reviewed journal.

Wilson further suggests that Lott's findings may depend on the crime rate trends that changed dramatically over the course of the 1990s. All of the studies in this literature, however, attempt to control for trends in crime, and thus purport to reveal a time invariant effect of right-to-carry laws. If the effects vary by time, all of the existing models are misspecified.

In sum, we are encouraged that Professor Wilson agrees with the rest of the committee except for the specific conclusion regarding the effects of right-to-carry laws on murder. On this point, we find his arguments to be unconvincing and his summary of some parts of the chapter inaccurate. In our view the evidence on homicide is not noticeably different from that on other crimes evaluated in this literature and cannot be easily separated. If the effects of right-to-carry laws on violent and property crimes are ambiguous, as argued in Chapter 6, we see no reason why the same is not true of homicide. Professor Wilson may be correct on this matter—it is theoretically possible—but we maintain that the scientific evidence does not support his position.

NOTES & QUESTIONS

1. Debate over whether right-to-carry laws affect crime continues. One of the most recent efforts by John Donohue (whose earlier work with Ian Ayers was evaluated by the NRC) engages the dispute between Wilson and the panel majority. Donohue claims that both Wilson and the NRC majority are in error. See Abhay Aneja, John J. Donohue III, & Alexandria Zhang, *The Impact of Right to Carry Laws and the NRC Report: Lessons for the Empirical Evaluation of Law and Policy*, 13 Am. L. & Econ. Rev. 565 (2011). The study reports a small, non-enduring, but statistically significant increase in rape and aggravated assaults.

The state data are very clear that carry permittees have minuscule gun crime rates. See David B. Kopel, *Pretend "Gun-Free" School Zones*, 42 Conn. L. Rev. 515, 564-72 (2009). According to the state data, carry permittees themselves are not perpetrating rapes (or assaults). So if Aneja, Donohue & Zhang are correct, the explanation would seem to be that would-be rapists and other criminals are *more* likely to attempt a rape or other violent attack if they live in a state where they know that the potential victim might be carrying a gun.

The Aneja article has some data errors, such as counting a single Alaska county 73 times in a single year, and providing the wrong years for when shall-issue laws went into effect in some states. (For example, the Kansas statute was enacted in 2006, not 1996). See Carlisle E. Moody et al., *Trust But Verify: Lessons for the Empirical Evaluation of Law and Policy* (Jan. 25, 2012), available at <http://ssrn.com/abstract=2026957>.

Another recent study, building on Donohue’s prior research, finds a large and statistically significant decrease in robbery. Carlisle E. Moody & Thomas B. Marvell, *The Debate on Shall-Issue Laws*, 5 Econ. J. Watch 269 (2008).

How should one evaluate the conflicting empirical claims? Since you probably do not have a Ph.D. in econometrics (if you did, you wouldn’t be in law school), how can you make an intellectually serious decision about the empirical case for or against right-to-carry laws?

2. Many people are skeptical of claims that more people carrying guns could reduce the crime rate. What does one have to believe about the decision making of the criminals in order to credit Lott’s claims? What beliefs about the decision making of criminals contradict Lott’s claims? Consider also the decision making of legal gun carriers.
3. Evaluate the use of the term “statistically significant”³ by James Q. Wilson in the following passages: “[T]he Ayres and Donohue paper shows that there was a ‘statistically significant downward shift in the trend’ of the murder rate. . . . This suggests to me that for people interested in RTC laws, the best evidence we have is that they impose no costs but may confer benefits.” and, in response to the suggestion that testing the data on a yearly basis would show no effect, “Estimating the effects of RTC laws by individual years reduces the number of observations and thus the likelihood of finding a statistically significant effect.” Do the same for the following passage in the Committee’s response: “[W]hen the trend and dummy variable models do not include demographic and socioeconomic covariates (but do include year and county dummy variables) the estimates are relatively small, positive in one case, and statistically insignificant in all cases.”
4. Under what circumstances would you choose to seek a permit to carry a concealed firearm? Generally speaking, what is a sufficient reason for the

3. “Statistical significance” has a very precise meaning when used in the social sciences. When a social science study shows a correlation between two things (e.g., the rate of heart attacks on a given day, and whether the temperature that day was above 100 degrees Fahrenheit), the question arises whether it is due simply to chance. Statisticians use well-established formulas to estimate the probability that the correlation is simply due to chance.

Usually, a result is said to be “statistically significant” if the significance test’s result is 0.05 or lower. In other words, there is a 95-percent probability that the correlation of the two things is not explained by mere chance, assuming that no confounding factors — unknown outside influences — are skewing the results. As a matter of standard practice, a correlation that is not statistically significant is ignored — that is, it is treated as if it does not exist, as if there is no correlation. Even a 94-percent probability is treated as if it did not exist.

For more on the meaning of “statistical significance” and the uses of significance testing, see online Chapter 14.B.

average person to be granted a permit to carry a gun? Does this differ from the reason sufficient to justify carrying another weapon, such as a knife or pepper spray?

5. Can you imagine circumstances where you would carry a gun illegally if you were denied a carry permit or you lived in a jurisdiction that refused to grant such permits? Are you comfortable with others making similar decisions?

L. Does Gun Control Reduce Crime?

One response to gun crime is to attempt to limit access to guns, especially by persons deemed untrustworthy. The federal Gun Control Act bans nine categories of people from possessing arms 18 U.S.C. 922(g). Prior to *Heller* (Chapter 9), a few cities (D.C., Chicago, and several Chicago suburbs) dispensed with the attempt to discern the untrustworthy and instead instituted blanket bans on the entire class of guns (handguns) most often used in crime. Banning guns avoids the difficulty of trying to distinguish between trustworthy and untrustworthy people; but bans also encounter the problem that many guns are already in the possession of individuals who may view them as important self-defense tools and therefore will not surrender them. The vast quantity of guns already in private hands raises serious questions about the efficacy of any proposal to ban all firearms, or to ban a class of firearms. See Nicholas J. Johnson, *Imagining Gun Control in America: Understanding the Remainder Problem*, 43 Wake Forest L. Rev. 837 (2008).

Some gun control advocates concede that gun control may have little effect on determined criminals, but they argue that stringent controls, or even prohibition, would be a good idea because they would disarm law-abiding persons. For example, a few days before the November 1976 vote on a handgun confiscation initiative in Massachusetts, Senator Edward Kennedy explained to a rally of confiscation supporters that “[w]e won’t keep handguns out of the hands of criminals.” Robert J. Rosenthal, *Handgun Question Elicits Differing Styles, Emotions*, Boston Globe, Oct. 25, 1976. After the initiative was defeated 69 percent to 31 percent, a disappointed official from the League of Women Voters (which had endorsed the initiative) said that “I think a lot of voters have the idea that this was designed to get guns away from the criminals. That’s not the real purpose.” Gwenn Wells, *Weisner Breathes Easier with Gun Ban Defeat*, Hyannis Times, Nov. 3, 1976.

1. The Argument for Disarming the Law-Abiding

District of Columbia Councilman David Clarke asserted the following rationale for enacting the handgun ban that was later invalidated in *Heller*: “[F]irearms are more frequently involved in deaths and violence among relatives and friends than in premeditated criminal activities. Most murders are committed by previously law-abiding citizens, in situations where spontaneous violence is generated by anger, passion, or intoxication, and where the killer and victims are acquainted. Twenty-five percent of these murders are within families.” David

A. Clarke, Chairperson of the Committee on the Judiciary and Criminal Law, *Bill No. 1-164, the "Firearms Control Act of 1975"*, Apr. 21, 1976, at 5.

It is true that about 18 percent of homicides involve boyfriends/girlfriends, friends, or family members. "Acquaintance" homicides account for another 28 percent. However, it should be noted that the most common way that the "acquaintances" met was through "prior illegal transactions," such as drug dealing. Kleck, *Targeting Guns*, at 236, analyzing data from U.S. Dep't of Justice, *Murder Cases in 33 Large Urban Counties in the United States*, 1988. (<http://www.icpsr.umich.edu/icpsrweb/NACJD/studies/9907>), and Federal Bureau of Investigation, *Supplementary Homicide Reports* (1995).

Domestic homicides tend to be the final act of a long pattern of abuse, rather than a sudden flare-up by a previously law-abiding person. A Police Foundation study of Kansas City revealed that in 90 percent of homicides among family members, the police had been called to the home within the past two years. The median number of previous calls was five. Marie Wilt et al., *Domestic Violence and the Police* 23 (1977). A Massachusetts study found that 71 percent of domestic murderers had prior criminal history; 29 percent were under restraining orders at some point, and 17 percent were under an active restraining order at the time of the murder. Linda Langford et al., *Criminal and Restraining Order Histories of Intimate Partner-Related Homicide Offenders in Massachusetts, 1991-95*, in *The Varieties of Homicide and Its Research* (2000). A larger study published in 1998 found a history of domestic violence was present in 95.8 percent of the intra-family homicides studied. David Kennedy & Anthony Braga, *Homicide in Minneapolis: Research for Problem Solving*, 2 *Homicide Stud.* 263, 267 (1998).

Many domestic shootings involve lawful self-defense. Data from Detroit, Houston, and Miami showed very large majorities of wives who killed their husbands were not convicted, or even indicted, because they were "act[ing] in self-defense against husbands who are abusive to themselves, their children, or both." Margo Daly & Martin Wilson, *Homicide* 15, 199-200 (1988); see also Angela Browne, *Assault and Homicide at Home: When Battered Women Kill*, in 3 *Advances Applied Soc. Psychol.* 61 (Michael Saks & Leonard Saxe eds., 1986) (FBI data show that 4.8 percent of U.S. homicides are women killing a mate in self-defense). In a study of domestic violence victims in West Virginia shelters, "26.5% reported that they believed they would have to use a gun to protect themselves." Margaret Phipps Brown et al., *The Role of Firearms in Domestic Violence* 31 (2000).

It is very clear that an abused woman is at much greater risk if her abuser has a gun. An abuser's being armed creates a 7.59 odds ratio for increased risk of femicide. However, when an abuse victim lives apart from the abuser, there is evidently no heightened risk from owning a gun. Living alone and having a gun yields an odds ratio of 0.22, which means that the odds of femicide are *lower* than living with the abuser or alone but unarmed. Jacquelyn Campbell et al., *Risk Factors for Femicide in Abusive Relationships*, 93 *Am. J. Pub. Health* 1089, 1090-92 (2003). Among the nine categories of "prohibited persons" under the Gun Control Act (and its many state analogues) are persons subject to a domestic violence restraining order, persons convicted of a domestic violence misdemeanor against an intimate partner, or persons convicted of a felony, including nonviolent felonies such as drug possession. 18 U.S.C. §922(g).

For criminal homicide in general, as with criminal domestic homicide, the killers are not usually persons who were previously law-abiding. "Homicide

offenders are likely to commit their murders in the course of long criminal careers consisting primarily of nonviolent crimes but including larger than normal proportions of violent crimes.” David Kennedy & Anthony Braga, *Homicide in Minneapolis: Research for Problem Solving*, 2 Homicide Stud. 263, 276 (1998). Kennedy and Braga’s analysis of 1988 national data on homicide in 33 large cities showed that 54 percent of killers had a prior adult criminal record, 2 percent had a juvenile record only; no information was available on 25 percent; and 20 percent did not have criminal records. *Id.* Of Illinois murderers in 2001, 43 percent had an Illinois felony conviction within the previous ten years and 72 percent had an Illinois arrest. Philip Cook et al., *Criminal Records of Homicide Offenders*, 294 JAMA 538 (2005).

City-level studies have similar findings. A *New York Times* study of the murders in New York City in 2003-05 found “[m]ore than 90 percent of the killers had criminal records. . . .” Jo McGinty, *New York Killers, and Those Killed, by the Numbers*, N.Y. Times, Apr. 28, 2006. In 1989, the *New York Times* reported that in Washington, D.C., almost all the murderers and victims were “involved in the drug trade.” Richard Berke, *Capital Offers a Ripe Market to Drug Dealers*, N.Y. Times, Mar. 28, 1989, at 1, 6. In Lowell, Massachusetts, “[s]ome 95% of homicide offenders” had been “arraigned at least once in Massachusetts courts” before they killed. “On average . . . homicide offenders had been arraigned for 9 prior offenses. . . .” Anthony Braga et al., *Understanding and Preventing Gang Violence: Problem Analysis and Response Development in Lowell, Massachusetts*, 9 Police Q. 20, 29-31 (2006). Baltimore police records show that 92 percent of 2006 murder suspects had criminal records. Gus Sentementes, *Patterns Persist in City Killings: Victims, Suspects Usually Black Men with Long Criminal Histories*, Balt. Sun, Jan. 1, 2007. The Kennedy and Braga study of Minneapolis homicide offenders found that 73 percent had been arrested at least once by the Minneapolis Police Department, with an average number of 7.4 arrests. Kennedy & Braga, *Homicide in Minneapolis, supra*, at 276, 283 (studying homicides perpetrated from Jan. 1, 1994, to May 24, 1997, and examining suspects’ MPD arrest records from 1990 onward; the study did not examine records of arrests by other law enforcement).

A comprehensive review of the data concludes that “[t]he vast majority of persons involved in life threatening violence have a long criminal record with many prior contacts with the justice system.” Delbert Elliott, *Life Threatening Violence Is Primarily a Crime Problem*, 69 Colo. L. Rev. 1081, 1093 (1998).

NOTES & QUESTIONS

1. Note that the claims about the criminal history of most murderers indicate that they are already legally prohibited from possessing firearms, yet firearms are nevertheless employed in most murders (see Section F). Can you imagine a policy that would address this problem?
2. Look again at Tables 12-8 and 12-9. Do the assessments in this section comport with the FBI data on murder circumstances. What additional details would you like to have about these episodes? Would that information change your assessment of the problem?

2. National Research Council Metastudy of Gun Control

One of the most comprehensive evaluations of the effectiveness and viability of modern gun control proposals was conducted by the National Research Council. This metastudy was sponsored by several organizations, including those with forthright gun control agendas. As shown in the excerpt below, the conclusion of this assessment was agnostic about the effectiveness of existing gun control measures. Another thoughtful study is James B. Jacobs, *Can Gun Control Work?* (2002).

National Research Council, Firearms and Violence: A Critical Review 2-10 (2004) (Executive Summary)

MAJOR CONCLUSIONS

Empirical research on firearms and violence has resulted in important findings that can inform policy decisions. In particular, a wealth of descriptive information exists about the prevalence of firearm-related injuries and deaths, about firearms markets, and about the relationships between rates of gun ownership and violence. Research has found, for example, that higher rates of household firearms ownership are associated with higher rates of gun suicide, that illegal diversions from legitimate commerce are important sources of crime guns and guns used in suicide, that firearms are used defensively many times per day, and that some types of targeted police interventions may effectively lower gun crime and violence. This information is a vital starting point for any constructive dialogue about how to address the problem of firearms and violence.

While much has been learned, much remains to be done, and this report necessarily focuses on the important unknowns in this field of study. The committee found that answers to some of the most pressing questions cannot be addressed with existing data and research methods, however well designed. For example, despite a large body of research, the committee found no credible evidence that the passage of right-to-carry laws decreases or increases violent crime, and there is almost no empirical evidence that the more than 80 prevention programs focused on gun-related violence have had any effect on children's behavior, knowledge, attitudes, or beliefs about firearms. The committee found that the data available on these questions are too weak to support unambiguous conclusions or strong policy statements.

Drawing causal inferences is always complicated and, in the behavioral and social sciences, fraught with uncertainty. Some of the problems that the committee identifies are common to all social science research. In the case of firearms research, however, the committee found that even in areas in which the data are potentially useful, the complex methodological problems inherent in unraveling causal relationships between firearms policy and violence have not been fully considered or adequately addressed.

Nevertheless, many of the shortcomings described in this report stem from the lack of reliable data itself rather than the weakness of methods. In some

instances—firearms violence prevention, for example—there are no data at all. Even the best methods cannot overcome inadequate data and, because the lack of relevant data colors much of the literature in this field, it also colors the committee’s assessment of that literature.

DATA RECOMMENDATIONS

If policy makers are to have a solid empirical and research base for decisions about firearms and violence, the federal government needs to support a systematic program of data collection and research that specifically addresses that issue. Adverse outcomes associated with firearms, although large in absolute numbers, are statistically rare events and therefore are not observed with great frequency, if at all, in many ongoing national probability samples (i.e., on crime victimization or health outcomes). The existing data on gun ownership, so necessary in the committee’s view to answering policy questions about firearms and violence, are limited primarily to a few questions in the General Social Survey. There are virtually no ongoing, systematic data series on firearms markets. Aggregate data on injury and ownership can only demonstrate associations of varying strength between firearms and adverse outcomes of interest. Without improvements in this situation, the substantive questions in the field about the role of guns in suicide, homicide and other crimes, and accidental injury are likely to continue to be debated on the basis of conflicting empirical findings.

EMERGING DATA SYSTEMS ON VIOLENT EVENTS

The committee reinforces recommendations made by past National Research Council committees and others to support the development and maintenance of the National Violent Death Reporting System and the National Incident-Based Reporting System. These data systems are designed to provide information that characterizes violent events. No single system will provide data that can answer all policy questions, but the necessary first step is to collect accurate and reliable information to describe the basic facts about violent injuries and deaths. The committee is encouraged by the efforts of the Harvard School of Public Health’s Injury Control Research Center pilot data collection program and the recent seed money provided to implement a Violent Death Reporting System at the Centers for Disease Control and Prevention.

OWNERSHIP DATA

The inadequacy of data on gun ownership and use is among the most critical barriers to better understanding of gun violence. Such data will not by themselves solve all methodological problems. However, its almost complete absence from the literature makes it extremely difficult to understand the complex personality, social, and circumstantial factors that intervene between a

firearm and its use. Also difficult to understand is the effect, if any, of programs designed to reduce the likelihood that a firearm will cause unjustified harm, or to investigate the effectiveness of firearm use in self-defense. We realize that many people have deeply held concerns about expanding the government's knowledge of who owns guns and what type of guns they own. We also recognize the argument that some people may refuse to supply such information in any system, especially those who are most likely to use guns illegally. The committee recommends a research effort to determine whether or not these kinds of data can be accurately collected with minimal risk to legitimate privacy concerns.

A starting point is to assess the potential of ongoing surveys. For example, efforts should be undertaken to assess whether tracing a larger fraction of guns used in crimes, regularly including questions on gun access and use in surveys and longitudinal studies (as is done in data from the ongoing, yearly Monitoring the Future survey), or enhancing existing items pertaining to gun ownership in ongoing national surveys may provide useful research data. To do this, researchers need access to the data. The committee recommends that appropriate access be given to data maintained by regulatory and law enforcement agencies, including the trace data maintained by the Bureau of Alcohol, Tobacco, and Firearms; registration data maintained by the Federal Bureau of Investigation and state agencies; and manufacturing and sales data for research purposes.

In addition, researchers need appropriate access to the panel data from the Monitoring the Future survey. These data may or may not be useful for understanding firearms markets and the role of firearms in crime and violence. However, without access to these systems, researchers are unable to assess their potential for providing insight into some of the most important firearms policy and research questions. Concerns about security and privacy must be addressed in the granting of greater access to these data, and the systems will need to be continually improved to make them more useful for research. Nevertheless, there is a long-established tradition of making sensitive data available with appropriate safeguards to researchers.

METHODOLOGICAL APPROACHES

Difficult methodological issues exist regarding how different data sets might be used to credibly answer the complex causal questions of interest.

The committee recommends that a methodological research program be established to address these problems. The design for data collection and analysis should be selected in light of particular research questions. For example, how, if at all, could improvements in current data, such as firearms trace data, be used in studies of the effects of policy interventions on firearms markets or any other policy issue? What would the desired improvements contribute to research on policy interventions for reducing firearms violence? Linking the research and data questions will help define the data that are needed. We recommend that the results of such research be regularly reported in the scientific literature and in forums accessible to investigators.

RESEARCH RECOMMENDATIONS

FIREARMS, CRIMINAL VIOLENCE, AND SUICIDE

Despite the richness of descriptive information on the associations between firearms and violence at the aggregate level, explaining a violent death is a difficult business. Personal temperament, the availability of weapons, human motivation, law enforcement policies, and accidental circumstances all play a role in leading one person but not another to inflict serious violence or commit suicide.

Because of current data limitations, researchers have relied primarily on two different methodologies. First, some studies have used case-control methods, which match a sample of cases, namely victims of homicide or suicide, to a sample of controls with similar characteristics but who were not affected by violence. Second, some “ecological” studies compare homicide or suicide rates in large geographic areas, such as counties, states, or countries, using existing measures of ownership.

Case-control studies show that violence is positively associated with firearms ownership, but they have not determined whether these associations reflect causal mechanisms. Two main problems hinder inference on these questions. First and foremost, these studies fail to address the primary inferential problems that arise because ownership is not a random decision. For example, suicidal persons may, in the absence of a firearm, use other means of committing suicide. Homicide victims may possess firearms precisely because they are likely to be victimized. Second, reporting errors regarding firearms ownership may systematically bias the results of estimated associations between ownership and violence.

Ecological studies currently provide contradictory evidence on violence and firearms ownership. For example, in the United States, suicide appears to be positively associated with rates of firearms ownership, but homicide is not. In contrast, in comparisons among countries, the association between rates of suicide and gun ownership is nonexistent or very weak but there is a substantial association between gun ownership and homicide. These cross-country comparisons reflect the fact that the suicide rate in the United States ranks toward the middle of industrialized countries, whereas the U.S. homicide rate is much higher than in all other developed countries.

The committee cannot determine whether these associations demonstrate causal relationships. There are three key problems. First, as noted above, these studies do not adequately address the problem of self-selection. Second, these studies must rely on proxy measures of ownership that are certain to create biases of unknown magnitude and direction. Third, because the ecological correlations are at a higher geographic level of aggregation, there is no way of knowing whether the homicides or suicides occurred in the same areas in which the firearms are owned.

In summary, the committee concludes that existing research studies and data include a wealth of descriptive information on homicide, suicide, and firearms, but, because of the limitations of existing data and methods, do not credibly demonstrate a causal relationship between the ownership of firearms and the causes or prevention of criminal violence or suicide. The issue of substitution (of the means of committing homicide or suicide) has been almost

entirely ignored in the literature. What sort of data and what sort of studies and improved models would be needed in order to advance understanding of the association between firearms and suicide? Although some knowledge may be gained from further ecological studies, the most important priority appears to the committee to be individual-level studies of the association between gun ownership and violence. Currently, no national surveys on ownership designed to examine the relationship exist. The committee recommends support of further individual-level studies of the link between firearms and both lethal and nonlethal suicidal behavior.

DETERRENCE AND DEFENSE

Although a large body of research has focused on the effects of firearms on injury, crime, and suicide, far less attention has been devoted to understanding the defensive and deterrent effects of firearms. Firearms are used by the public to defend against crime. Ultimately, it is an empirical question whether defensive gun use and concealed weapons laws generate net social benefits or net social costs.

DEFENSIVE GUN USE

Over the past decade, a number of researchers have conducted studies to measure the prevalence of defensive gun use in the population. However, disagreement over the definition of defensive gun use and uncertainty over the accuracy of survey responses to sensitive questions and the methods of data collection have resulted in estimated prevalence rates that differ by a factor of 20 or more. These differences in the estimated prevalence rates indicate either that each survey is measuring something different or that some or most of them are in error. Accurate measurement on the extent of defensive gun use is the first step for beginning serious dialogue on the efficacy of defensive gun use at preventing injury and crime.

For such measurement, the committee recommends that a research program be established to (1) clearly define and understand what is being measured, (2) understand inaccurate response in the national gun use surveys, and (3) apply known methods or develop new methods to reduce reporting errors to the extent possible. A substantial research literature on reporting errors in other contexts, as well as well-established survey sampling methods, can and should be brought to bear to evaluate these response problems.

RIGHT-TO-CARRY LAWS

A total of 34 states [now 42 — Eds.] have laws that allow qualified adults to carry concealed handguns. Right-to-carry laws are not without controversy: some people believe that they deter crimes against individuals; others argue that they have no such effect or that they may even increase the level of firearms violence.

This public debate has stimulated the production of a large body of statistical evidence on whether right-to-carry laws reduce or increase crimes against individuals.

However, although all of the studies use the same basic conceptual model and data, the empirical findings are contradictory and in the committee's view highly fragile. Some studies find that right-to-carry laws reduce violent crime, others find that the effects are negligible, and still others find that such laws increase violent crime. The committee concludes that it is not possible to reach any scientifically supported conclusion because of (a) the sensitivity of the empirical results to seemingly minor changes in model specification, (b) a lack of robustness of the results to the inclusion of more recent years of data (during which there were many more law changes than in the earlier period), and (c) the statistical imprecision of the results. The evidence to date does not adequately indicate either the sign or the magnitude of a causal link between the passage of right-to-carry laws and crime rates. Furthermore, this uncertainty is not likely to be resolved with the existing data and methods. If further headway is to be made, in the committee's judgment, new analytical approaches and data are needed. (One committee member has dissented from this view with respect to the effects of these laws on homicide rates.)

INTERVENTIONS TO REDUCE VIOLENCE AND SUICIDE

Even if it were to be shown that firearms are a cause of lethal violence, the development of successful programs to reduce such violence would remain a complex undertaking, because such interventions would have to address factors other than the use of a gun. Three chapters in this report focus specifically on what is known about various interventions aimed at reducing firearms violence by restricting access, or implementing prevention programs, or implementing criminal justice interventions. These chapters focus largely on what is known about the effects of different interventions on criminal violence. Although suicide prevention rarely has been the basis for public support of the passage of specific gun laws, such laws could have unintended effects on suicide rates or unintended by-products. Thus, in addition to the recommendations related to firearms and crime below, the committee also recommends further studies of the link between firearms policy and suicide.

RESTRICTING ACCESS

Firearms are bought and sold in markets, both formal and informal. To some observers this suggests that one method for reducing the burden of firearm injuries is to intervene in these markets so as to make it more expensive, inconvenient, or legally risky to obtain firearms for criminal use or suicide. Market-based interventions intended to reduce access to guns by criminals and other unqualified persons include taxes on weapons and ammunition, tough regulation of federal firearm licensees, limits on the number of firearms

that can be purchased in a given time period, gun bans, gun buy-backs, and enforcement of laws against illegal gun buyers or sellers.

Because of the pervasiveness of guns and the variety of legal and illegal means of acquiring them, it is difficult to keep firearms from people barred by law from possessing them. The key question is substitution. In the absence of the pathways currently used for gun acquisition, could individuals have obtained alternative weapons with which they could have wrought equivalent harm? Substitution can occur in many dimensions: offenders can obtain different guns, they can get them from different places, and they can get them at different times.

Arguments for and against a market-based approach are now largely based on speculation, not on evidence from research. It is simply not known whether it is actually possible to shut down illegal pipelines of guns to criminals nor the costs of doing so. Answering these questions is essential to knowing whether access restrictions are a possible public policy. The committee has not attempted to identify specific interventions, research strategies, or data that might be suited to studying market interventions, substitution, and firearms violence. Rather, the committee recommends that work be started to think carefully about possible research and data designs to address these issues.

PREVENTION PROGRAMS AND TECHNOLOGY

Firearm violence prevention programs are disseminated widely in U.S. public school systems to children ages 5 to 18, and safety technologies have been suggested as an alternative means to prevent firearm injuries. The actual effects of a particular prevention program on violence and injury, however, have been little studied and are difficult to predict. For children, firearm violence education programs may result in increases in the very behaviors they are designed to prevent, by enhancing the allure of guns for young children and by establishing a false norm of gun-carrying for adolescents. Likewise, even if perfectly reliable, technology that serves to reduce injury among some groups may lead to increased deviance or risk among others.

The committee found little scientific basis for understanding the effects of different prevention programs on the rates of firearm injuries. Generally, there has been scant funding for evaluation of these programs. For the few that have been evaluated, there is little empirical evidence of positive effects on children's knowledge, attitudes, beliefs, or behaviors. Likewise, the extent to which different technologies affect injuries remains unknown. Often, the literature is entirely speculative. In other cases, for example the empirical evaluations of child access prevention (CAP) laws, the empirical literature reveals conflicting estimates that are difficult to reconcile.

In light of the lack of evidence, the committee recommends that firearm violence prevention programs should be based on general prevention theory, that government programs should incorporate evaluation into implementation efforts, and that a sustained body of empirical research be developed to study the effects of different safety technologies on violence and crime.

CRIMINAL JUSTICE INTERVENTIONS

Policing and sentencing interventions have had recent broad bipartisan support and are a major focus of current efforts to reduce firearms violence. These policies generally do not affect the ability of law-abiding citizens to keep guns for recreation or self-defense, and they have the potential to reduce gun violence by deterring or incapacitating violent offenders. Descriptive accounts suggest that some of these policies may have had dramatic crime-reducing effects: homicide rates fell dramatically after the implementation of Boston's targeted policing program, Operation Ceasefire, and Richmond's sentencing enhancement program, Project Exile.⁴

Despite these apparent associations between crime and policing policy, however, the available research evidence on the effects of policing and sentencing enhancements on firearm crime is limited and mixed. Some sentencing enhancement policies appear to have modest crime-reducing effects, while the effects of others appear to be negligible.

The limited evidence on Project Exile suggests that it has had almost no effect on homicide. Several city-based quasi-random interventions provide favorable evidence on the effectiveness of targeted place-based gun and crime suppression patrols, but this evidence is both application-specific and difficult to disentangle. Evidence on Operation Ceasefire, perhaps the most frequently cited of all targeted policing efforts to reduce firearms violence, is limited by the fact that it is a single case at a specific time and location. Scientific support for the effectiveness of the Boston Gun Project and most other similar types of targeted policing programs is still evolving.

The lack of research on these potentially important kinds of policies is an important shortcoming in the body of knowledge on firearms injury interventions. These programs are widely viewed as effective, but in fact knowledge of whether and how they reduce crime is limited. Without a stronger research base, policy makers considering adoption of similar programs in other settings must make decisions without knowing the true benefits and costs of these policing and sentencing interventions.

The committee recommends that a sustained, systematic research program be conducted to assess the effect of targeted policing and sentencing aimed at firearms offenders. Additional insights may be gained from using observational data from different applications, especially if combined with more thoughtful behavioral models of policing and crime. City-level studies on the effect of sentencing enhancement policies need to engage more rigorous methods, such as pooled time-series cross-sectional studies that allow the detection of short-term impacts while controlling for variation in violence levels across different areas as well as different times. Another important means of assessing the impact of these types of targeted policing and sentencing interventions would be to conduct randomized experiments to disentangle the effects of the various levers, as well as to more generally assess the effectiveness of these targeted policing programs.

4. [Project Exile was a program to provide extra resources for federal prosecutions of convicted felons caught in illegal possession of a gun, in order to impose the stringent federal mandatory sentences for felons in possession. — Eps.]

NOTES & QUESTIONS

1. One response to the critique that the effectiveness of existing gun controls has not been demonstrated is that the gun control agenda was never fully implemented. For an assessment of the likely consequences of full implementation, see Johnson, *Imagining Gun Control in America*, *supra*.
2. The NRC points to the lack of solid data about gun ownership (also discussed in Section B of this chapter) as an obstacle to empirical research on firearms policy. How could research needs be satisfied without violating what the NRC calls “legitimate privacy concerns”?
3. The NRC’s core conclusion is that existing social science research is inconclusive on whether gun control laws work, or whether guns in the right hands protect public safety. If so, on what basis should people make decisions about firearms policy?

M. *Polling Data about Gun Control and Gun Rights*

Public attitudes about gun control surely affect policy initiatives of public officials and perhaps even influence courts. See, e.g., Cass R. Sunstein, *Second Amendment Minimalism: Heller as Griswold*, 122 Harv. L. Rev. 246 (2008). Attitudes about gun control are sometimes obscured by vague or tendentious survey questions. See Gary A. Mauser & David B. Kopel, *Sorry, Wrong Number: Why Media Polls on Gun Control Are So Often Unreliable*, 9 Pol. Comm. & Persuasion 69 (1992). However, most will acknowledge that actual gun bans constitute “strict gun control.” On that measure, support for strict gun control, in the form of a handgun ban (like those overturned in *Heller* (Chapter 9) and *McDonald* (Chapter 9)), is at an all-time low. The Gallup report below shows the history of public attitudes about handgun bans and how those attitudes vary among different demographic groups.

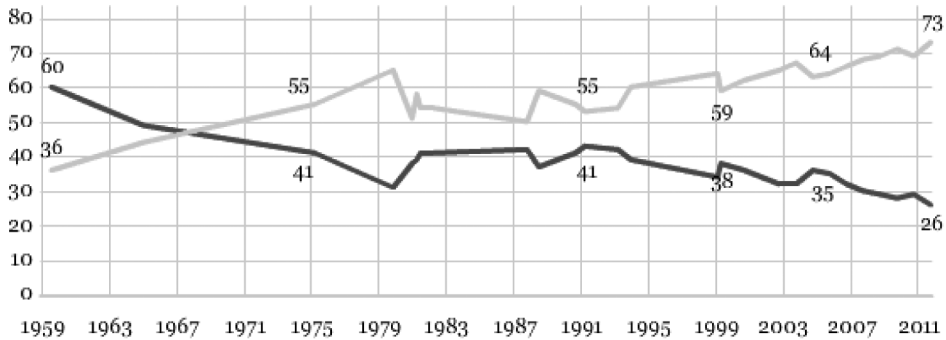
1. Public Opinion

Jeffrey M. Jones, Record-Low 26% in U.S. Favor Handgun Ban Support for Stricter Gun Laws in General Is Lowest Gallup Has Measured (Oct. 26, 2011)
[Gallup.com](http://www.gallup.com)

A record-low 26% of Americans favor a legal ban on the possession of handguns in the United States other than by police and other authorized people. When Gallup first asked Americans this question in 1959, 60% favored banning handguns. But since 1975, the majority of Americans have opposed such a measure, with opposition around 70% in recent years.

*Do you think there should or should not be a law that would ban the possession of handguns, except by the police and other authorized persons?**

■ % Should be ■ % Should not be



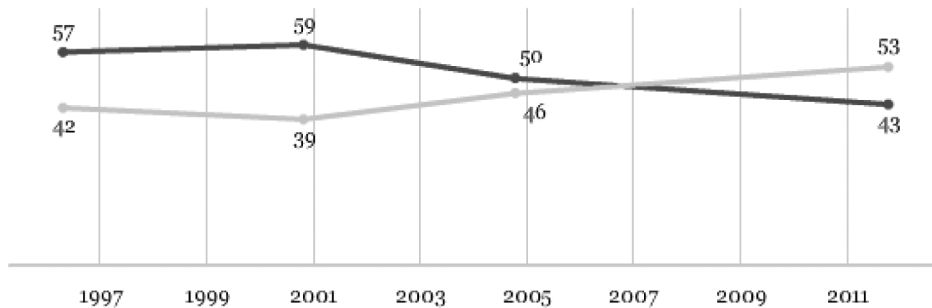
GALLUP®

The results are based on Gallup’s annual Crime poll, conducted Oct. 6-9 [2011]. This year’s poll finds support for a variety of gun-control measures at historical lows, including the ban on handguns, which is Gallup’s longest continuing gun-control trend.

For the first time, Gallup finds greater opposition to than support for a ban on semiautomatic guns or assault rifles, 53% to 43%. In the initial asking of this question in 1996, the numbers were nearly reversed, with 57% for and 42% against an assault rifle ban. Congress passed such a ban in 1994, but the law expired when Congress did not act to renew it in 2004. Around the time the law expired, Americans were about evenly divided in their views.

Are you for or against a law which would make it illegal to manufacture, sell, or possess semiautomatic guns known as assault rifles?

■ % For ■ % Against



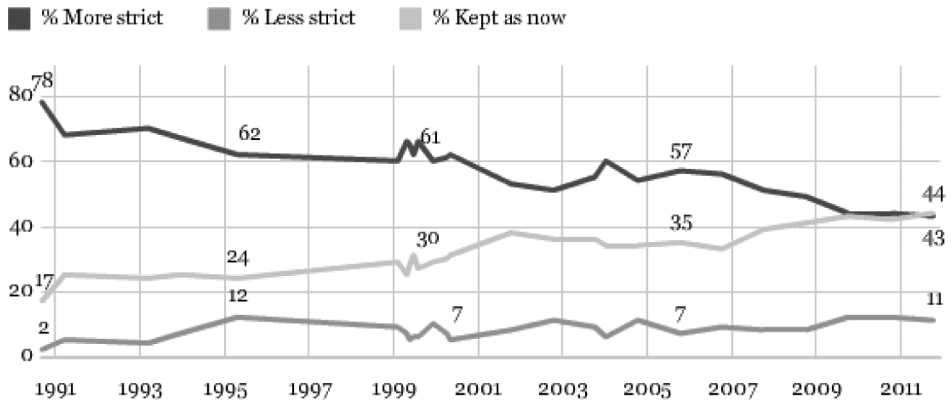
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* [The results may overstate support for handgun prohibition, since some respondents may interpret “other authorized persons” as implying a non-prohibitory licensing system. — Eds.]

Additionally, support for the broader concept of making gun laws “more strict” is at its lowest by one percentage point (43%). Forty-four percent prefer that gun laws be kept as they are now, while 11% favor less strict laws.

As recently as 2007, a majority of Americans still favored stricter laws, which had been the dominant view since Gallup first asked the question in 1990.

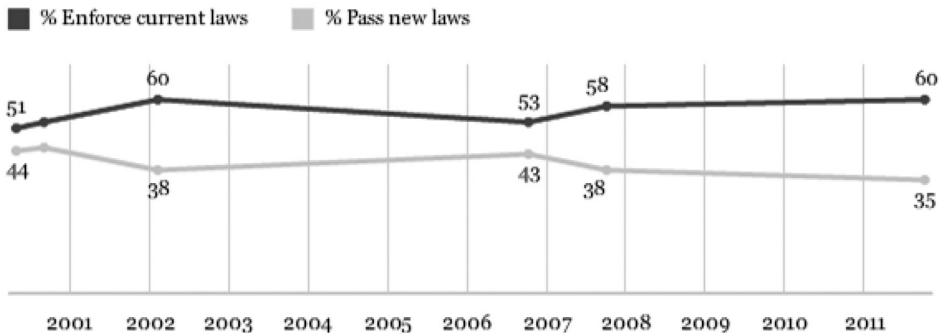
In general, do you feel that the laws covering the sale of firearms should be made more strict, less strict, or kept as they are now?



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Americans’ preference regarding gun laws is generally that the government enforce existing laws more strictly and not pass new laws (60%) rather than pass new gun laws in addition to stricter enforcement of existing laws (35%). That has been the public’s view since Gallup first asked the question in 2000; the 60% this year who want stricter enforcement but no new laws is tied for the high in the trend.

In terms of gun laws in the United States, which of the following would you prefer to see happen -- [ROTATE: enforce the current gun laws more strictly and NOT pass new gun laws (or) pass new gun laws in addition to enforcing the current laws more strictly]?



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Support for Stricter Gun Laws Down Among Key Subgroups

All key subgroups show less support for stricter gun laws, and for a ban on handguns, than they did 20 years ago. In 1991, 68% of Americans favored stricter gun laws and 43% favored a ban on handguns. Those percentages are 43% and 26%, respectively, today.

Relatively few key subgroups favor stricter gun-control laws today, whereas in 1991, all did. Since then, Democrats' views have shown less change, with a 10-point decline in the percentage favoring stricter laws. Republicans show a much larger decline of 35 points. In addition to Democrats, majorities of Eastern residents and those without guns in their household still favor stricter gun laws.

Percentage Favoring Stricter Laws Covering the Sale of Firearms, by Subgroup, 1991 and 2011 Gallup Polls

| | 1991 % | 2011 % | Change (pct. pts.) |
|---------------------|-----------|-----------|-----------------------|
| Men | 59 | 37 | -22 |
| Women | 76 | 50 | -26 |
| 18 to 29 years | 62 | 39 | -23 |
| 30 to 49 years | 69 | 43 | -26 |
| 50+ years | 71 | 45 | -26 |
| College | 72 | 43 | -29 |
| No college | 65 | 44 | -21 |
| East | 77 | 54 | -23 |
| Midwest | 72 | 37 | -35 |
| South | 61 | 40 | -21 |
| West | 63 | 44 | -19 |
| Democrat | 74 | 64 | -10 |
| Independent | 65 | 37 | -28 |
| Republican | 66 | 31 | -35 |
| Gun in household | 56 | 29 | -27 |
| No gun in household | 78 | 57 | -21 |

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Democrats, Eastern residents, members of gun nonowning households, and women were among the few subgroups to favor a ban on handguns in 1991, but now no key subgroup has a majority in favor. Those with guns in their household are least likely to favor a handgun ban.

Percentage Favoring a Ban on Handguns, by Subgroup, 1991 and 2011 Gallup Polls

| | 1991 | 2011 | Change |
|---------------------|-------------|-------------|--------------------|
| | % | % | (pct. pts.) |
| Men | 34 | 20 | -14 |
| Women | 51 | 31 | -20 |
| 18 to 29 years | 39 | 32 | -7 |
| 30 to 49 years | 39 | 23 | -16 |
| 50+ years | 50 | 25 | -25 |
| College | 44 | 24 | -20 |
| No college | 42 | 28 | -14 |
| East | 55 | 36 | -19 |
| Midwest | 49 | 25 | -24 |
| South | 34 | 21 | -13 |
| West | 35 | 24 | -11 |
| Democrat | 54 | 37 | -17 |
| Independent | 40 | 23 | -17 |
| Republican | 35 | 16 | -19 |
| Gun in household | 24 | 12 | -12 |
| No gun in household | 59 | 39 | -20 |

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Implications

Americans have shifted to a more pro-gun view on gun laws, particularly in recent years, with record-low support for a ban on handguns, an assault rifle ban, and stricter gun laws in general. This is the case even as high-profile incidents of gun violence continue in the United States, such as the January [2012] shootings at a meeting for U.S. Rep. Gabrielle Giffords in Arizona.

The reasons for the shift do not appear related to reactions to the crime situation, as Gallup's Crime poll shows no major shifts in the trends in Americans' perceptions of crime, fear of crime, or reports of being victimized by crime in recent years. Nor does it appear to be tied to an increase in gun ownership, which has been around 40% since 2000, though it is a slightly higher 45% in this year's update. The 2011 updates on these trends will appear on Gallup.com in the coming days.

Perhaps the trends are a reflection of the American public's acceptance of guns. In 2008, Gallup found [widespread agreement with](#) the idea that the Second Amendment of the U.S. Constitution guarantees the right of Americans to own guns. Americans may also be moving toward more libertarian views in some areas, one example of which is [greater support for legalizing marijuana use](#). Diminished support for gun-control laws may also be tied to the lack of major gun-control legislation efforts in Congress in recent years.

2. Police Attitudes about Firearms and Gun Control

Like teachers, nurses, or any other large group, police officers have diverse opinions on policy issues. Police polls do consistently show that a very large majority of rank-and-file police support firearms ownership by law-abiding people. *See, e.g.,* David Griffith, *Shooting Straight: The Majority of Cops Believe Citizens Should Have the Right to Own Handguns*, *Police*, Mar. 2007, at 10; *Officers Emphatically Say "No" to Gun Control*, *Police*, Mar. 2007, at 14 (both articles reporting results of a survey conducted by the magazine); *Police Views on Gun Control*, *Austin Am.-Statesman*, Oct. 4, 1993, at A8 (1993 poll by the Southern States Police Benevolent Association shows that 90% of southern police feel that the Constitution protects the right of individuals to keep and bear arms); *Funny You Should Ask*, *Police*, Apr. 1993, at 56 (85% of police believe civilian gun ownership increases public safety); *The Law Enforcement Technology Gun Control Survey*, *Law Enforcement Tech.*, July/Aug. 1991, at 14-15 ("75% do not favor gun control legislation . . . with street officers opposing it by as much as 85%").

The first national poll of police attitudes toward gun control was conducted by the Planning and Research Department of the Boston Police Department in 1976, at the order of Boston Police Commissioner Robert DiGrazia, who was surprised at the widespread police opposition to a handgun confiscation initiative on the Massachusetts ballot. Chapter 8.C.5. In a survey of leading police officials (not rank and file), 82.8 percent rejected the idea that only the police should be allowed to own handguns.

NOTES & QUESTIONS

1. To what extent should police views be considered persuasive on issues involving civil liberties or criminal justice?
 2. Do the trends described in this Gallup article comport with your intuitions about who would support gun bans and why? Why do you think that support for handgun bans is down among all groups?
-

Appendix
Firearms and Violent Crime Measures by State

Justice Brandeis commented in 1932 that one of the happy incidents of the American federalism was that states could serve as laboratories of democracy. As illustrated throughout the book, gun regulation varies substantially across the individual states, even after *Heller* (Chapter 9). It is difficult to draw conclusions about the effectiveness of various gun control measures from simple comparisons between states because many variables can affect outcomes in complicated systems. Still, it can be illuminating to see how different states, with very different gun control laws, experience the costs, benefits, and problems associated with firearms. This appendix provides a series of tables illustrating the experiences of individual states on a variety of measures. These data may aid you in developing research themes. They also will likely confirm, complicate, and defy your intuitions about firearms policy.

2009 Murder Arrests: 10,554 Total Arrests Nationally 120

2009 Murder Arrest Rate: 4.1 Reported Arrests Nationally per 100,000 Population..... 121

2009 Reported Aggravated Assault Arrests: 367,846 Arrests Reported Nationally 122

2009 Reported Aggravated Assault Arrest Rates: 142.4 Arrest Rate Reported
per 100,000 Population..... 123

2009 Weapons Violations Arrests Reported: 137,849 Arrests Nationally 124

2009 Reported Arrest Rate for Weapons Violations: 53.4 Arrest Rate Reported
per 100,000 Population..... 125

2009 Reported Arrests for Violent Crime of Juveniles: 75,218 Reported Arrests
Nationally 126

2009 Juvenile Reported Arrest Rate for Violent Crime: 274.7 Juvenile Arrest
Rate per 100,000 Population 127

2009 Reported Juvenile Murder Arrests: 1,011 Arrests Reported Nationally 128

2009 Reported Juvenile Arrest Rate for Murder: 3.7 Arrests Reported
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2009 Reported Arrest of Juveniles for Robbery: 27,898 Reported Arrests Nationally 130

2009 Reported Juvenile Arrest Rate for Robbery: 101.9 Juvenile Arrest Rate
per 100,000 Population..... 131

2009 Reported Arrests of Juveniles for Aggravated Assault: 43,801 Reported
Arrests Nationally..... 132

2009 Reported Juvenile Arrests Rate for Aggravated Assault: 159.9 Juvenile Arrest
Rate Nationally per 100,000 Population..... 133

2009 Reported Arrests of Juveniles for Vandalism: 73,794 Reported Arrests
Nationally 134

2009 Reported Juvenile Arrest Rate for Vandalism: 269.5 Reported Juvenile
Arrests per 100,000 Population 135

2009 Reported Arrests of Juveniles for Drunkenness: 134,301 Reported Arrests
Nationally 136

2009 Juvenile Reported Arrests for Weapons Violations: 28,293 Reported
Arrests Nationally..... 137

2009 Juvenile Reported Arrest Rate for Weapons: 103.3 Reported Arrest Rate
Nationally per 100,000 Population 138

2006 Juveniles in Residential Custody: 92,854 Juveniles Nationally 139

2006 Rate of Juveniles in Residential Custody: 295 Juveniles Nationally per
 100,000 Population..... 140

2006 Percent of Juveniles Who Are in Custody Who Are White: 35% Nationally..... 141

2006 Rate of Black Juveniles in Residential Custody: 767 Black Juveniles
 per 100,000 Nationally 142

2006 Percent of Black Juveniles in Residential Custody: 40% Nationally..... 143

2006 Rate of Hispanic Juveniles in Residential Custody: 326 Juveniles per
 100,000 Population Nationally 144

2006 Percent of Hispanic Juveniles in Residential Custody: 20% Nationally..... 145

2008 Percentage of Teachers Who Reported Being Physically Attacked by
 a Student: 4.3% of Teachers Nationally 146

2009 Percent of High School Students Who Drink Alcohol..... 147

2009 Percent of High School Students Who Use Marijuana 148

2009 Child Abuse and Neglect per 1000 Population Under 18..... 149

2009 Physically Abused Children per 1000 Population Under 18 150

2004 Number of Federal Law Enforcement Officers: 104,884 Total Officers
 Nationally 151

2009 Number of State Government Law Enforcement Officers: 72,160
 Total Officers Nationally..... 152

2009 Number of State and Local Police Officers: 719,358 Total Officers
 Nationally 153

2009 State and Local Police Officers per 10,000 Population..... 154

2009 City and County Law Enforcement Agencies per 1,000 Square Miles..... 155

2009 Law Enforcement Officers Feloniously Killed: 46 National Total..... 156

2000 to 2009 Law Enforcement Officers Feloniously Killed: 513 National Total..... 157

2009 Law Enforcement Officers Accidentally Killed: 47 National Total 158

2000 to 2009 Law Enforcement Officers Accidentally Killed: 710 National Total..... 159

2009 Number of Detectives and Criminal Investigators: 110,380 National Total..... 160

2009 Wiretaps Authorized: 1,713 Total Wiretaps Nationally..... 161

2009 Violent Crimes: 1,318,398 National Total..... 162

2009 Average Time Between Violent Crimes..... 163

2008 to 2009 Percent Change in Number of Violent Crimes..... 164

2009 Violent Crimes with Firearms: 305,254 National Total 165

2009 Violent Crimes with Firearms per 100,000 Population 166

2009 Percent of Violent Crimes Involving Firearms 167

2009 Average Time Between Murders..... 168

2009 Murders per 100,000 Population..... 169

2009 Murders with Firearms: 9,146 National Total..... 170

2009 Murders with Firearms per 100,000 Population..... 171

2009 Percent of Murders Involving Firearms 172

2009 Murders with Handguns: 6,452 National Total..... 173

2009 Handgun Murders: 2.6 Murders per 100,000 Population Nationally 174

2009 Rifle Murders: 348 Murders Nationally..... 175

2009 Murders Involving Rifles: 2.6% of Murders Nationally..... 176

2009 Shotgun Murders: 418 Murders Nationally 177

2009 Murders Involving Shotguns: 3.1% of Murders Nationally 178

2009 Knife/Cutting Instrument Murders: 1,825 Murders Nationally 179

2009 Hands, Fists, Feet Murders: 801 Murders Nationally..... 180

2009 Robberies: 408,217 Robberies Nationally..... 181

2009 Rate of Robbery: 133.0 Robberies per 100,000 Population Nationally..... 182

2009 Robberies with Firearms: 149,335 Robberies Nationally 183

2009 Rate of Robbery with Firearms: 55.9 Robberies per 100,000 Population
 Nationally 184

2009 Aggravated Assaults with Firearms: 146,773 Aggravated Assaults Nationally..... 185

2009 Rate of Aggravated Assault with Firearms: 55.0 Aggravated Assaults
per 100,000 Population Nationally 186

2009 Aggravated Assaults with Knives or Cutting Instruments: 131,547 Aggravated
Assaults Nationally 187

2009 Rate of Aggravated Assault with Knives or Cutting Instruments: 18.7% of
Aggravated Assaults Nationally 188

2009 Aggravated Assaults with Blunt Objects and Other Dangerous Weapons:
234,973 Aggravated Assaults Nationally 189

2009 Aggravated Assaults with Hands, Fists, or Feet: 188,668 Aggravated
Assaults Nationally 190

2009 Violent Crimes at Universities or Colleges: 2,674 Violent Crimes Nationally 191

2009 Violent Crime Rate at Universities or Colleges: 39.5 Violent Crimes per
100,000 Enrollment Nationally..... 192

2005-2009 Percent Change in Murders: 9.0% Decrease Nationally..... 193

2009 Hate Crimes: 7,789 Hate Crimes Nationally..... 194

2009 Hate Crimes per 100,000 Population: 2.8 Violent Crimes per 100,000
Population Nationally..... 195

2011 Population: National Total = 311,591,917 196

2009 Murder Arrests
10,554 Total Arrests Nationally

| <i>Rank</i> | <i>State</i> | <i>Arrests</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | California | 1,811 | 17.2% |
| 2 | Texas | 823 | 7.8% |
| 3 | Florida | 779 | 7.4% |
| 4 | Pennsylvania | 526 | 5.0% |
| 5 | North Carolina | 483 | 4.6% |
| 6 | Georgia | 430 | 4.1% |
| 7 | Missouri | 388 | 3.7% |
| 8 | Illinois | 380 | 3.6% |
| 9 | Tennessee | 321 | 3.0% |
| 10 | Maryland | 318 | 3.0% |
| 11 | Alabama | 292 | 2.8% |
| 12 | New York | 279 | 2.6% |
| 13 | Virginia | 267 | 2.5% |
| 14 | South Carolina | 234 | 2.2% |
| 15 | Ohio | 232 | 2.2% |
| 16 | New Jersey | 229 | 2.2% |
| 17 | Michigan | 221 | 2.1% |
| 18 | Arizona | 202 | 1.9% |
| 18 | Indiana | 202 | 1.9% |
| 20 | Oklahoma | 197 | 1.9% |
| 21 | Louisiana | 182 | 1.7% |
| 22 | Colorado | 166 | 1.6% |
| 23 | Nevada | 149 | 1.4% |
| 24 | Kentucky | 142 | 1.3% |
| 24 | Wisconsin | 142 | 1.3% |
| 26 | Washington | 138 | 1.3% |
| 27 | Connecticut | 118 | 1.1% |
| 28 | Arkansas | 113 | 1.1% |
| 29 | Mississippi | 109 | 1.0% |
| 30 | Minnesota | 103 | 1.0% |
| 31 | Massachusetts | 76 | 0.7% |
| 32 | Oregon | 72 | 0.7% |
| 33 | New Mexico | 69 | 0.7% |
| 34 | Kansas | 46 | 0.4% |
| 35 | West Virginia | 42 | 0.4% |
| 36 | Utah | 37 | 0.4% |
| 37 | Nebraska | 35 | 0.3% |
| 38 | Delaware | 31 | 0.3% |
| 39 | Iowa | 27 | 0.3% |
| 40 | Alaska | 22 | 0.2% |
| 41 | Maine | 19 | 0.2% |
| 42 | Montana | 18 | 0.2% |
| 43 | Hawaii | 16 | 0.2% |
| 43 | Idaho | 16 | 0.2% |
| 43 | Wyoming | 16 | 0.2% |
| 46 | Rhode Island | 12 | 0.1% |
| 47 | North Dakota | 8 | 0.1% |
| 48 | South Dakota | 7 | 0.1% |
| 49 | Vermont | 6 | 0.1% |
| 50 | New Hampshire | 3 | 0.0% |
| | District of Columbia | NA | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 9 (Kathleen O. Morgan et al. eds., 2011).

2009 Murder Arrest Rate
4.1 Reported Arrests Nationally per 100,000 Population

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Alabama | 7.9 |
| 2 | Louisiana | 7.6 |
| 3 | Missouri | 7.0 |
| 3 | North Carolina | 7.0 |
| 5 | Mississippi | 6.7 |
| 6 | Tennessee | 6.6 |
| 7 | Georgia | 6.4 |
| 8 | Kentucky | 6.2 |
| 9 | Nevada | 5.9 |
| 10 | Maryland | 5.6 |
| 10 | Oklahoma | 5.6 |
| 12 | South Carolina | 5.3 |
| 13 | California | 4.9 |
| 14 | Arkansas | 4.6 |
| 15 | New Mexico | 4.5 |
| 15 | Pennsylvania | 4.5 |
| 15 | West Virginia | 4.5 |
| 18 | Indiana | 4.3 |
| 19 | Florida | 4.2 |
| 20 | Colorado | 3.7 |
| 21 | Virginia | 3.6 |
| 22 | Delaware | 3.5 |
| 23 | Connecticut | 3.4 |
| 23 | Texas | 3.4 |
| 25 | Alaska | 3.2 |
| 26 | Arizona | 3.1 |
| 27 | Wyoming | 3.0 |
| 28 | Ohio | 2.9 |
| 29 | Washington | 2.8 |
| 30 | New Jersey | 2.7 |
| 31 | New York | 2.6 |
| 31 | Wisconsin | 2.6 |
| 33 | Kansas | 2.5 |
| 34 | Michigan | 2.3 |
| 35 | Nebraska | 2.2 |
| 36 | Minnesota | 2.0 |
| 36 | Montana | 2.0 |
| 36 | Oregon | 2.0 |
| 39 | Hawaii | 1.4 |
| 39 | Maine | 1.4 |
| 41 | North Dakota | 1.3 |
| 41 | Utah | 1.3 |
| 43 | Massachusetts | 1.2 |
| 43 | Rhode Island | 1.2 |
| 45 | Idaho | 1.1 |
| 46 | Iowa | 1.0 |
| 46 | South Dakota | 1.0 |
| 46 | Vermont | 1.0 |
| 49 | New Hampshire | 0.3 |
| NA | Illinois | NA |
| | District of Columbia | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 10 (Kathleen O. Morgan et al. eds., 2011).

2009 Reported Aggravated Assault Arrests
367,846 Arrests Reported Nationally

| <i>Rank</i> | <i>State</i> | <i>Arrests</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | California | 95,937 | 26.1% |
| 2 | Florida | 36,474 | 9.9% |
| 3 | Texas | 23,622 | 6.4% |
| 4 | Pennsylvania | 15,136 | 4.1% |
| 5 | North Carolina | 13,104 | 3.6% |
| 6 | New York | 10,504 | 2.9% |
| 7 | Massachusetts | 10,475 | 2.8% |
| 8 | Michigan | 9,905 | 2.7% |
| 9 | Tennessee | 9,785 | 2.7% |
| 10 | Georgia | 9,126 | 2.5% |
| 11 | Missouri | 8,856 | 2.4% |
| 12 | New Jersey | 8,745 | 2.4% |
| 13 | Louisiana | 8,484 | 2.3% |
| 14 | Maryland | 7,519 | 2.0% |
| 15 | South Carolina | 7,204 | 2.0% |
| 16 | Arizona | 6,722 | 1.8% |
| 17 | Indiana | 5,494 | 1.5% |
| 18 | Wisconsin | 5,157 | 1.4% |
| 19 | Nevada | 5,110 | 1.4% |
| 20 | Connecticut | 5,023 | 1.4% |
| 21 | Washington | 4,868 | 1.3% |
| 22 | Colorado | 4,795 | 1.3% |
| 23 | Oklahoma | 4,643 | 1.3% |
| 24 | Illinois | 4,592 | 1.2% |
| 25 | Virginia | 4,205 | 1.1% |
| 26 | Minnesota | 3,991 | 1.1% |
| 27 | Alabama | 3,485 | 0.9% |
| 28 | Iowa | 3,403 | 0.9% |
| 29 | Ohio | 3,400 | 0.9% |
| 30 | New Mexico | 3,168 | 0.9% |
| 31 | Arkansas | 3,003 | 0.8% |
| 32 | Oregon | 2,885 | 0.8% |
| 33 | Kentucky | 2,143 | 0.8% |
| 34 | Delaware | 1,977 | 0.5% |
| 35 | Kansas | 1,848 | 0.5% |
| 36 | Alaska | 1,763 | 0.5% |
| 37 | Utah | 1,484 | 0.4% |
| 38 | Nebraska | 1,373 | 0.4% |
| 39 | Idaho | 1,313 | 0.4% |
| 40 | Mississippi | 1,160 | 0.3% |
| 41 | West Virginia | 1,153 | 0.3% |
| 42 | Hawaii | 852 | 0.2% |
| 43 | Montana | 796 | 0.2% |
| 44 | Rhode Island | 563 | 0.2% |
| 45 | Wyoming | 488 | 0.1% |
| 46 | New Hampshire | 470 | 0.1% |
| 47 | Vermont | 447 | 0.1% |
| 48 | Maine | 416 | 0.1% |
| 49 | North Dakota | 378 | 0.1% |
| 50 | South Dakota | 358 | 0.1% |
| | District of Columbia | NA | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 15 (Kathleen O. Morgan et al. eds., 2011).

2009 Reported Aggravated Assault Arrest Rates
142.4 Arrest Rate Reported per 100,000 Population

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Louisiana | 352.0 |
| 2 | California | 260.9 |
| 3 | Alaska | 258.3 |
| 4 | Delaware | 223.6 |
| 5 | New Mexico | 206.8 |
| 6 | Nevada | 200.6 |
| 7 | Tennessee | 200.1 |
| 8 | Florida | 197.0 |
| 9 | North Carolina | 189.0 |
| 10 | Massachusetts | 170.9 |
| 11 | South Carolina | 163.8 |
| 12 | Missouri | 159.8 |
| 13 | Connecticut | 142.8 |
| 14 | Georgia | 134.9 |
| 15 | Maryland | 132.5 |
| 16 | Oklahoma | 131.6 |
| 17 | Pennsylvania | 128.1 |
| 18 | West Virginia | 124.6 |
| 19 | Iowa | 123.4 |
| 20 | Arkansas | 121.6 |
| 21 | Indiana | 117.4 |
| 22 | Colorado | 106.0 |
| 23 | Michigan | 103.5 |
| 24 | Arizona | 103.3 |
| 25 | New Jersey | 102.6 |
| 26 | Kansas | 101.9 |
| 27 | Washington | 99.7 |
| 28 | New York | 98.0 |
| 29 | Texas | 97.3 |
| 30 | Wisconsin | 95.7 |
| 31 | Alabama | 94.6 |
| 32 | Kentucky | 93.4 |
| 33 | Wyoming | 90.5 |
| 34 | Montana | 87.9 |
| 35 | Idaho | 86.4 |
| 36 | Nebraska | 86.3 |
| 37 | Oregon | 79.9 |
| 38 | Minnesota | 78.3 |
| 39 | Hawaii | 74.1 |
| 40 | Vermont | 73.8 |
| 41 | Mississippi | 71.1 |
| 42 | North Dakota | 61.8 |
| 43 | Virginia | 56.2 |
| 44 | Rhode Island | 55.3 |
| 45 | Utah | 54.0 |
| 46 | South Dakota | 53.1 |
| 47 | Ohio | 41.8 |
| 48 | New Hampshire | 40.5 |
| 49 | Maine | 31.6 |
| NA | Illinois | NA |
| | District of Columbia | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 16 (Kathleen O. Morgan et al. eds., 2011).

2009 Weapons Violations Arrests Reported
137,849 Arrests Nationally

| <i>Rank</i> | <i>State</i> | <i>Arrests</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | California | 29,835 | 21.6% |
| 2 | Texas | 11,365 | 8.2% |
| 3 | Florida | 6,908 | 5.0% |
| 4 | North Carolina | 6,454 | 4.7% |
| 5 | New Jersey | 4,848 | 3.5% |
| 6 | Georgia | 4,475 | 3.2% |
| 7 | Michigan | 4,270 | 3.1% |
| 8 | Illinois | 4,172 | 3.0% |
| 9 | Pennsylvania | 4,056 | 2.9% |
| 10 | New York | 4,036 | 2.9% |
| 11 | Wisconsin | 3,964 | 2.9% |
| 12 | Missouri | 3,817 | 2.8% |
| 13 | Virginia | 3,712 | 2.7% |
| 14 | Maryland | 3,590 | 2.6% |
| 15 | Ohio | 3,518 | 2.6% |
| 16 | Tennessee | 3,244 | 2.4% |
| 17 | Arizona | 3,193 | 2.3% |
| 18 | South Carolina | 2,436 | 1.8% |
| 19 | Washington | 2,378 | 1.7% |
| 20 | Oklahoma | 1,966 | 1.4% |
| 21 | Nevada | 1,950 | 1.4% |
| 22 | Indiana | 1,913 | 1.4% |
| 23 | Minnesota | 1,858 | 1.3% |
| 24 | Colorado | 1,836 | 1.3% |
| 25 | Louisiana | 1,607 | 1.2% |
| 26 | Massachusetts | 1,514 | 1.1% |
| 27 | Connecticut | 1,487 | 1.1% |
| 28 | Oregon | 1,456 | 1.1% |
| 29 | Alabama | 1,379 | 1.0% |
| 30 | Utah | 1,308 | 0.9% |
| 31 | Arkansas | 1,158 | 0.8% |
| 32 | Mississippi | 1,085 | 0.8% |
| 33 | Kentucky | 1,056 | 0.8% |
| 34 | Nebraska | 903 | 0.7% |
| 35 | Kansas | 663 | 0.5% |
| 36 | New Mexico | 601 | 0.4% |
| 37 | Idaho | 549 | 0.4% |
| 38 | Iowa | 486 | 0.4% |
| 39 | Rhode Island | 457 | 0.3% |
| 40 | Maine | 411 | 0.3% |
| 41 | Delaware | 410 | 0.3% |
| 42 | Alaska | 365 | 0.3% |
| 43 | West Virginia | 305 | 0.2% |
| 44 | Hawaii | 237 | 0.2% |
| 45 | South Dakota | 140 | 0.1% |
| 46 | North Dakota | 132 | 0.1% |
| 47 | Wyoming | 113 | 0.1% |
| 48 | New Hampshire | 108 | 0.1% |
| 49 | Montana | 62 | 0.0% |
| 50 | Vermont | 24 | 0.0% |
| | District of Columbia | NA | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 31 (Kathleen O. Morgan et al. eds., 2011).

**2009 Reported Arrest Rate for Weapons Violations
53.4 Arrest Rate Reported per 100,000 Population**

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | North Carolina | 93.1 |
| 2 | California | 81.1 |
| 3 | Nevada | 76.6 |
| 4 | Wisconsin | 73.6 |
| 5 | Missouri | 68.9 |
| 6 | Louisiana | 66.7 |
| 7 | Mississippi | 66.5 |
| 8 | Tennessee | 66.3 |
| 9 | Georgia | 66.1 |
| 10 | Maryland | 63.3 |
| 11 | New Jersey | 56.9 |
| 12 | Nebraska | 56.7 |
| 13 | Oklahoma | 55.7 |
| 14 | South Carolina | 55.4 |
| 15 | Alaska | 53.5 |
| 16 | Virginia | 49.6 |
| 17 | Arizona | 49.1 |
| 18 | Washington | 48.7 |
| 19 | Utah | 47.6 |
| 20 | Arkansas | 46.9 |
| 21 | Texas | 46.8 |
| 22 | Delaware | 46.4 |
| 23 | Kentucky | 46.0 |
| 24 | Rhode Island | 44.9 |
| 25 | Michigan | 44.6 |
| 26 | Ohio | 43.2 |
| 27 | Connecticut | 42.3 |
| 28 | Indiana | 40.9 |
| 29 | Colorado | 40.6 |
| 30 | Oregon | 40.3 |
| 31 | New Mexico | 39.2 |
| 32 | New York | 37.7 |
| 33 | Alabama | 37.5 |
| 34 | Florida | 37.3 |
| 35 | Kansas | 36.6 |
| 36 | Minnesota | 36.5 |
| 37 | Idaho | 36.1 |
| 38 | Pennsylvania | 34.3 |
| 39 | West Virginia | 33.0 |
| 40 | Maine | 31.2 |
| 41 | Massachusetts | 24.7 |
| 42 | North Dakota | 21.6 |
| 43 | Wyoming | 20.9 |
| 44 | South Dakota | 20.7 |
| 45 | Hawaii | 20.6 |
| 46 | Iowa | 17.6 |
| 47 | New Hampshire | 9.3 |
| 48 | Montana | 6.8 |
| 49 | Vermont | 4.0 |
| NA | Illinois | NA |
| | District of Columbia | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, in Crime State Rankings 2011: Crime Across America 32 (Kathleen O. Morgan et al. eds., 2011).

**2009 Reported Arrests for Violent Crime of Juveniles
75,218 Reported Arrests Nationally**

| <i>Rank</i> | <i>State</i> | <i>Arrests</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | California | 15,146 | 20.1% |
| 2 | Florida | 7,211 | 9.6% |
| 3 | Texas | 4,857 | 6.5% |
| 4 | Pennsylvania | 4,475 | 5.9% |
| 5 | Maryland | 3,216 | 4.3% |
| 6 | Illinois | 3,016 | 4.0% |
| 7 | New Jersey | 2,813 | 3.7% |
| 8 | New York | 2,619 | 3.5% |
| 9 | Georgia | 2,167 | 2.9% |
| 10 | Michigan | 2,106 | 2.8% |
| 11 | North Carolina | 1,913 | 2.5% |
| 12 | Massachusetts | 1,771 | 2.4% |
| 13 | Missouri | 1,689 | 2.2% |
| 14 | Louisiana | 1,654 | 2.2% |
| 15 | Tennessee | 1,598 | 2.1% |
| 16 | Wisconsin | 1,374 | 1.8% |
| 17 | Arizona | 1,344 | 1.8% |
| 18 | Ohio | 1,263 | 1.7% |
| 19 | Washington | 1,210 | 1.6% |
| 20 | Indiana | 1,185 | 1.6% |
| 21 | Connecticut | 1,170 | 1.6% |
| 22 | South Carolina | 1,098 | 1.5% |
| 23 | Minnesota | 1,000 | 1.3% |
| 24 | Nevada | 997 | 1.3% |
| 25 | Colorado | 814 | 1.1% |
| 26 | Virginia | 783 | 1.0% |
| 27 | Iowa | 681 | 0.9% |
| 28 | Oklahoma | 652 | 0.9% |
| 29 | Alabama | 620 | 0.8% |
| 30 | Oregon | 548 | 0.7% |
| 31 | Delaware | 499 | 0.7% |
| 32 | Kentucky | 420 | 0.6% |
| 33 | New Mexico | 416 | 0.6% |
| 34 | Utah | 358 | 0.5% |
| 35 | Arkansas | 352 | 0.5% |
| 36 | Kansas | 284 | 0.4% |
| 37 | Nebraska | 270 | 0.4% |
| 38 | Mississippi | 251 | 0.3% |
| 39 | Hawaii | 239 | 0.3% |
| 40 | Idaho | 205 | 0.3% |
| 41 | Alaska | 201 | 0.3% |
| 42 | Rhode Island | 195 | 0.3% |
| 43 | Montana | 117 | 0.3% |
| 44 | New Hampshire | 90 | 0.1% |
| 45 | Maine | 73 | 0.1% |
| 46 | North Dakota | 57 | 0.1% |
| 47 | West Virginia | 56 | 0.1% |
| 48 | South Dakota | 55 | 0.1% |
| 49 | Wyoming | 47 | 0.1% |
| 50 | Vermont | 43 | 0.1% |
| | District of Columbia | NA | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 196 (Kathleen O. Morgan et al. eds., 2011).

**2009 Juvenile Reported Arrest Rate for Violent Crime
274.7 Juvenile Arrest Rate per 100,000 Population**

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Louisiana | 623.9 |
| 2 | Delaware | 553.2 |
| 3 | Maryland | 539.8 |
| 4 | Florida | 405.7 |
| 5 | Pennsylvania | 371.4 |
| 6 | California | 371.1 |
| 7 | Nevada | 362.5 |
| 8 | Tennessee | 314.3 |
| 9 | New Jersey | 311.4 |
| 10 | Connecticut | 310.8 |
| 11 | Massachusetts | 291.8 |
| 12 | Georgia | 285.9 |
| 13 | Missouri | 284.8 |
| 14 | North Carolina | 265.3 |
| 15 | Alaska | 258.3 |
| 16 | New Mexico | 253.8 |
| 17 | Wisconsin | 245.1 |
| 18 | South Carolina | 242.4 |
| 19 | New York | 239.5 |
| 20 | Washington | 238.4 |
| 21 | Iowa | 235.3 |
| 22 | Indiana | 230.2 |
| 23 | Hawaii | 221.1 |
| 24 | Michigan | 200.1 |
| 25 | Rhode Island | 191.5 |
| 26 | Arizona | 189.5 |
| 27 | Minnesota | 186.9 |
| 28 | Colorado | 176.4 |
| 29 | Kentucky | 175.9 |
| 30 | Texas | 173.9 |
| 31 | Oklahoma | 172.8 |
| 32 | Nebraska | 158.6 |
| 33 | Alabama | 157.4 |
| 34 | Oregon | 150.2 |
| 35 | Ohio | 145.1 |
| 36 | Kansas | 145.0 |
| 37 | Mississippi | 136.2 |
| 38 | Arkansas | 133.2 |
| 39 | Montana | 127.9 |
| 40 | Idaho | 117.3 |
| 41 | Utah | 105.1 |
| 42 | Virginia | 102.6 |
| 43 | North Dakota | 95.1 |
| 44 | Wyoming | 84.6 |
| 45 | South Dakota | 76.9 |
| 46 | New Hampshire | 74.6 |
| 47 | Vermont | 73.2 |
| 48 | West Virginia | 63.0 |
| 49 | Maine | 57.1 |
| NA | Illinois | NA |
| | District of Columbia | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 197 (Kathleen O. Morgan et al. eds., 2011).

**2009 Reported Juvenile Murder Arrests
1,011 Arrests Reported Nationally**

| <i>Rank</i> | <i>State</i> | <i>Arrests</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | California | 183 | 18.1% |
| 2 | Texas | 84 | 8.3% |
| 3 | Florida | 69 | 6.8% |
| 4 | Illinois | 58 | 5.7% |
| 5 | Georgia | 54 | 5.3% |
| 6 | Missouri | 49 | 4.8% |
| 7 | North Carolina | 45 | 4.5% |
| 8 | Tennessee | 44 | 4.4% |
| 9 | Maryland | 38 | 3.8% |
| 10 | Pennsylvania | 36 | 3.6% |
| 11 | New York | 32 | 3.2% |
| 12 | Alabama | 28 | 2.8% |
| 12 | New Jersey | 28 | 2.8% |
| 14 | Michigan | 23 | 2.3% |
| 15 | Oklahoma | 21 | 2.1% |
| 16 | South Carolina | 19 | 1.9% |
| 17 | Colorado | 17 | 1.7% |
| 17 | Louisiana | 17 | 1.7% |
| 17 | Ohio | 17 | 1.7% |
| 20 | Washington | 16 | 1.6% |
| 21 | Indiana | 14 | 1.4% |
| 22 | Arizona | 13 | 1.3% |
| 22 | Nevada | 13 | 1.3% |
| 24 | Virginia | 12 | 1.2% |
| 25 | Kentucky | 10 | 1.0% |
| 25 | Wisconsin | 10 | 1.0% |
| 27 | Connecticut | 7 | 0.7% |
| 27 | Kansas | 7 | 0.7% |
| 29 | Arkansas | 5 | 0.5% |
| 29 | Oregon | 5 | 0.5% |
| 31 | Delaware | 4 | 0.4% |
| 31 | Massachusetts | 4 | 0.4% |
| 31 | Mississippi | 4 | 0.4% |
| 31 | Nebraska | 4 | 0.4% |
| 31 | New Mexico | 4 | 0.4% |
| 31 | Utah | 4 | 0.4% |
| 37 | Minnesota | 3 | 0.3% |
| 38 | Idaho | 2 | 0.2% |
| 38 | Montana | 2 | 0.2% |
| 38 | West Virginia | 2 | 0.2% |
| 38 | Wyoming | 2 | 0.2% |
| 42 | Iowa | 1 | 0.1% |
| 42 | Maine | 1 | 0.1% |
| 44 | Alaska | 0 | 0.0% |
| 44 | Hawaii | 0 | 0.0% |
| 44 | New Hampshire | 0 | 0.0% |
| 44 | North Dakota | 0 | 0.0% |
| 44 | Rhode Island | 0 | 0.0% |
| 44 | South Dakota | 0 | 0.0% |
| 44 | Vermont | 0 | 0.0% |
| | District of Columbia | NA | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 199 (Kathleen O. Morgan et al. eds., 2011).

**2009 Reported Juvenile Arrest Rate for Murder
3.7 Arrests Reported per 100,000 Population**

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Tennessee | 8.7 |
| 2 | Missouri | 8.3 |
| 3 | Alabama | 7.1 |
| 3 | Georgia | 7.1 |
| 5 | Louisiana | 6.4 |
| 5 | Maryland | 6.4 |
| 7 | North Carolina | 6.2 |
| 8 | Oklahoma | 5.6 |
| 9 | Nevada | 4.7 |
| 10 | California | 4.5 |
| 11 | Delaware | 4.4 |
| 12 | Kentucky | 4.2 |
| 12 | South Carolina | 4.2 |
| 14 | Florida | 3.9 |
| 15 | Colorado | 3.7 |
| 16 | Kansas | 3.6 |
| 16 | Wyoming | 3.6 |
| 18 | Washington | 3.2 |
| 19 | New Jersey | 3.1 |
| 20 | Pennsylvania | 3.0 |
| 20 | Texas | 3.0 |
| 22 | New York | 2.9 |
| 23 | Indiana | 2.7 |
| 24 | New Mexico | 2.4 |
| 25 | Nebraska | 2.3 |
| 25 | West Virginia | 2.3 |
| 27 | Michigan | 2.2 |
| 27 | Mississippi | 2.2 |
| 27 | Montana | 2.2 |
| 30 | Ohio | 2.0 |
| 31 | Arkansas | 1.9 |
| 31 | Connecticut | 1.9 |
| 33 | Arizona | 1.8 |
| 33 | Wisconsin | 1.8 |
| 35 | Virginia | 1.6 |
| 36 | Oregon | 1.4 |
| 37 | Utah | 1.2 |
| 38 | Idaho | 1.1 |
| 39 | Maine | 0.8 |
| 40 | Massachusetts | 0.7 |
| 41 | Minnesota | 0.6 |
| 42 | Iowa | 0.3 |
| 43 | Alaska | 0.0 |
| 43 | Hawaii | 0.0 |
| 43 | New Hampshire | 0.0 |
| 43 | North Dakota | 0.0 |
| 43 | Rhode Island | 0.0 |
| 43 | South Dakota | 0.0 |
| 43 | Vermont | 0.0 |
| NA | Illinois | NA |
| | District of Columbia | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 200 (Kathleen O. Morgan et al. eds., 2011).

**2009 Reported Arrest of Juveniles for Robbery
27,898 Reported Arrests Nationally**

| <i>Rank</i> | <i>State</i> | <i>Arrests</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | California | 6,231 | 22.3% |
| 2 | Florida | 2,618 | 9.4% |
| 3 | Maryland | 1,756 | 6.3% |
| 4 | Pennsylvania | 1,685 | 6.0% |
| 5 | Texas | 1,599 | 5.7% |
| 6 | New Jersey | 1,439 | 5.2% |
| 7 | Illinois | 1,322 | 4.7% |
| 8 | New York | 1,168 | 4.2% |
| 9 | Ohio | 747 | 2.7% |
| 10 | North Carolina | 730 | 2.6% |
| 11 | Michigan | 664 | 2.4% |
| 12 | Georgia | 658 | 2.4% |
| 13 | Tennessee | 507 | 1.8% |
| 14 | Missouri | 500 | 1.8% |
| 15 | Wisconsin | 494 | 1.8% |
| 16 | Massachusetts | 484 | 1.7% |
| 17 | Washington | 452 | 1.6% |
| 18 | Nevada | 437 | 1.6% |
| 19 | Arizona | 370 | 1.3% |
| 20 | Minnesota | 359 | 1.3% |
| 21 | Indiana | 337 | 1.2% |
| 22 | Alabama | 336 | 1.2% |
| 23 | Connecticut | 327 | 1.2% |
| 24 | Virginia | 300 | 1.1% |
| 25 | South Carolina | 293 | 1.1% |
| 26 | Louisiana | 230 | 0.8% |
| 27 | Colorado | 206 | 0.7% |
| 28 | Kentucky | 190 | 0.7% |
| 29 | Delaware | 175 | 0.6% |
| 30 | Oklahoma | 172 | 0.6% |
| 31 | Oregon | 168 | 0.6% |
| 32 | Mississippi | 139 | 0.5% |
| 33 | Hawaii | 112 | 0.4% |
| 34 | Iowa | 103 | 0.4% |
| 34 | Nebraska | 103 | 0.4% |
| 36 | Rhode Island | 99 | 0.4% |
| 37 | Utah | 74 | 0.3% |
| 38 | Arkansas | 63 | 0.3% |
| 39 | Kansas | 48 | 0.2% |
| 40 | Alaska | 37 | 0.1% |
| 41 | New Mexico | 30 | 0.1% |
| 42 | Maine | 18 | 0.1% |
| 42 | New Hampshire | 18 | 0.1% |
| 42 | West Virginia | 18 | 0.1% |
| 45 | Idaho | 11 | 0.0% |
| 46 | Montana | 10 | 0.0% |
| 47 | North Dakota | 5 | 0.0% |
| 47 | Vermont | 5 | 0.0% |
| 49 | South Dakota | 4 | 0.0% |
| 50 | Wyoming | 0 | 0.0% |
| | District of Columbia | NA | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 205 (Kathleen O. Morgan et al. eds., 2011).

2009 Reported Juvenile Arrest Rate for Robbery
101.9 Juvenile Arrest Rate per 100,000 Population

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Maryland | 294.7 |
| 2 | Delaware | 194.0 |
| 3 | New Jersey | 159.3 |
| 4 | Nevada | 158.9 |
| 5 | California | 152.7 |
| 6 | Florida | 147.3 |
| 7 | Pennsylvania | 139.8 |
| 8 | New York | 106.8 |
| 9 | Hawaii | 103.6 |
| 10 | North Carolina | 101.2 |
| 11 | Tennessee | 99.7 |
| 12 | Rhode Island | 97.2 |
| 13 | Washington | 89.1 |
| 14 | Wisconsin | 88.1 |
| 15 | Connecticut | 86.9 |
| 16 | Georgia | 86.8 |
| 16 | Louisiana | 86.8 |
| 18 | Ohio | 85.8 |
| 19 | Alabama | 85.3 |
| 20 | Missouri | 84.3 |
| 21 | Massachusetts | 79.7 |
| 22 | Kentucky | 79.6 |
| 23 | Mississippi | 75.4 |
| 24 | Minnesota | 67.1 |
| 25 | Indiana | 65.5 |
| 26 | South Carolina | 64.7 |
| 27 | Michigan | 63.1 |
| 28 | Nebraska | 60.5 |
| 29 | Texas | 57.3 |
| 30 | Arizona | 52.2 |
| 31 | Alaska | 47.6 |
| 32 | Oregon | 46.0 |
| 33 | Oklahoma | 45.6 |
| 34 | Colorado | 44.6 |
| 35 | Virginia | 39.3 |
| 36 | Iowa | 35.6 |
| 37 | Kansas | 24.5 |
| 38 | Arkansas | 23.8 |
| 39 | Utah | 21.7 |
| 40 | West Virginia | 20.3 |
| 41 | New Mexico | 18.3 |
| 42 | New Hampshire | 14.9 |
| 43 | Maine | 14.1 |
| 44 | Montana | 10.9 |
| 45 | Vermont | 8.5 |
| 46 | North Dakota | 8.3 |
| 47 | Idaho | 6.3 |
| 48 | South Dakota | 5.6 |
| 49 | Wyoming | 0.0 |
| NA | Illinois | NA |
| | District of Columbia | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 206 (Kathleen O. Morgan et al. eds., 2011).

2009 Reported Arrests of Juveniles for Aggravated Assault
43,801 Reported Arrests Nationally

| <i>Rank</i> | <i>State</i> | <i>Arrests</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | California | 8,497 | 19.4% |
| 2 | Florida | 4,334 | 9.9% |
| 3 | Texas | 2,928 | 6.7% |
| 4 | Pennsylvania | 2,553 | 5.8% |
| 5 | Illinois | 1,549 | 3.5% |
| 6 | Georgia | 1,405 | 3.2% |
| 7 | Louisiana | 1,368 | 3.1% |
| 8 | Maryland | 1,367 | 3.1% |
| 9 | New York | 1,356 | 3.1% |
| 10 | Michigan | 1,304 | 3.0% |
| 11 | New Jersey | 1,276 | 2.9% |
| 12 | Massachusetts | 1,254 | 2.9% |
| 13 | North Carolina | 1,099 | 2.5% |
| 14 | Missouri | 1,079 | 2.5% |
| 15 | Tennessee | 986 | 2.3% |
| 16 | Arizona | 932 | 2.1% |
| 17 | Indiana | 815 | 1.9% |
| 18 | Connecticut | 807 | 1.8% |
| 19 | South Carolina | 732 | 1.7% |
| 20 | Wisconsin | 728 | 1.7% |
| 21 | Washington | 651 | 1.5% |
| 22 | Minnesota | 627 | 1.4% |
| 23 | Iowa | 550 | 1.3% |
| 24 | Nevada | 531 | 1.2% |
| 25 | Colorado | 524 | 1.2% |
| 26 | Virginia | 431 | 1.0% |
| 27 | Oklahoma | 426 | 1.0% |
| 28 | Ohio | 404 | 0.9% |
| 29 | New Mexico | 364 | 0.8% |
| 30 | Oregon | 354 | 0.8% |
| 31 | Delaware | 297 | 0.7% |
| 32 | Arkansas | 252 | 0.6% |
| 33 | Alabama | 236 | 0.5% |
| 34 | Utah | 220 | 0.5% |
| 35 | Kansas | 206 | 0.5% |
| 36 | Kentucky | 204 | 0.5% |
| 37 | Idaho | 167 | 0.4% |
| 38 | Alaska | 157 | 0.4% |
| 39 | Nebraska | 143 | 0.3% |
| 40 | Hawaii | 110 | 0.3% |
| 41 | Montana | 100 | 0.2% |
| 42 | Mississippi | 96 | 0.2% |
| 43 | Rhode Island | 80 | 0.2% |
| 44 | New Hampshire | 70 | 0.2% |
| 45 | South Dakota | 43 | 0.1% |
| 46 | North Dakota | 36 | 0.1% |
| 46 | Wyoming | 36 | 0.1% |
| 48 | Maine | 35 | 0.1% |
| 49 | West Virginia | 32 | 0.1% |
| 50 | Vermont | 30 | 0.1% |
| | District of Columbia | NA | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 208 (Kathleen O. Morgan et al. eds., 2011).

2009 Reported Juvenile Arrests Rate for Aggravated Assault
159.9 Juvenile Arrest Rate Nationally per 100,000 Population

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Louisiana | 516.0 |
| 2 | Delaware | 329.3 |
| 3 | Florida | 243.8 |
| 4 | Maryland | 229.4 |
| 5 | New Mexico | 222.1 |
| 6 | Connecticut | 214.1 |
| 7 | Pennsylvania | 211.9 |
| 8 | California | 208.2 |
| 9 | Massachusetts | 206.6 |
| 10 | Alaska | 201.8 |
| 11 | Tennessee | 193.9 |
| 12 | Nevada | 193.0 |
| 13 | Iowa | 190.0 |
| 14 | Georgia | 185.4 |
| 15 | Missouri | 181.9 |
| 16 | South Carolina | 161.6 |
| 17 | Indiana | 158.3 |
| 18 | North Carolina | 152.4 |
| 19 | New Jersey | 141.2 |
| 20 | Arizona | 131.4 |
| 21 | Wisconsin | 129.9 |
| 22 | Washington | 128.3 |
| 23 | New York | 124.0 |
| 24 | Michigan | 123.9 |
| 25 | Minnesota | 117.2 |
| 26 | Colorado | 113.5 |
| 27 | Oklahoma | 112.9 |
| 28 | Montana | 109.3 |
| 29 | Kansas | 105.2 |
| 30 | Texas | 104.9 |
| 31 | Hawaii | 101.8 |
| 32 | Oregon | 97.0 |
| 33 | Idaho | 95.6 |
| 34 | Arkansas | 95.3 |
| 35 | Kentucky | 85.4 |
| 36 | Nebraska | 84.0 |
| 37 | Rhode Island | 78.6 |
| 38 | Wyoming | 64.8 |
| 39 | Utah | 64.6 |
| 40 | North Dakota | 60.1 |
| 40 | South Dakota | 60.1 |
| 42 | Alabama | 59.9 |
| 43 | New Hampshire | 58.0 |
| 44 | Virginia | 56.5 |
| 45 | Mississippi | 52.1 |
| 46 | Vermont | 51.1 |
| 47 | Ohio | 46.4 |
| 48 | West Virginia | 36.0 |
| 49 | Maine | 27.4 |
| NA | Illinois | NA |
| | District of Columbia | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 209 (Kathleen O. Morgan et al. eds., 2011).

**2009 Reported Arrests of Juveniles for Vandalism
73,794 Reported Arrests Nationally**

| <i>Rank</i> | <i>State</i> | <i>Arrests</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | California | 13,916 | 18.9% |
| 2 | Texas | 5,433 | 7.4% |
| 3 | Pennsylvania | 3,840 | 5.2% |
| 4 | New York | 3,718 | 5.0% |
| 5 | Arizona | 3,428 | 4.6% |
| 6 | Wisconsin | 3,370 | 4.6% |
| 7 | New Jersey | 2,508 | 3.4% |
| 8 | Florida | 2,292 | 3.1% |
| 9 | Ohio | 1,881 | 2.5% |
| 10 | Missouri | 1,784 | 2.4% |
| 11 | Utah | 1,754 | 2.4% |
| 12 | North Carolina | 1,685 | 2.3% |
| 13 | Washington | 1,683 | 2.3% |
| 14 | Minnesota | 1,680 | 2.3% |
| 15 | Maryland | 1,628 | 2.2% |
| 16 | Colorado | 1,574 | 2.1% |
| 17 | Nevada | 1,539 | 2.1% |
| 18 | Illinois | 1,515 | 2.1% |
| 19 | Oregon | 1,495 | 2.0% |
| 20 | Iowa | 1,408 | 1.9% |
| 21 | Tennessee | 1,396 | 1.9% |
| 22 | Virginia | 1,192 | 1.6% |
| 23 | Nebraska | 1,158 | 1.6% |
| 24 | Michigan | 1,091 | 1.5% |
| 25 | Indiana | 992 | 1.3% |
| 26 | Georgia | 867 | 1.2% |
| 27 | Massachusetts | 811 | 1.1% |
| 28 | Connecticut | 802 | 1.1% |
| 29 | South Carolina | 769 | 1.0% |
| 30 | Louisiana | 549 | 0.7% |
| 31 | Idaho | 537 | 0.7% |
| 32 | Maine | 471 | 0.6% |
| 33 | Oklahoma | 451 | 0.6% |
| 34 | Kansas | 390 | 0.5% |
| 35 | Montana | 384 | 0.5% |
| 36 | New Hampshire | 371 | 0.5% |
| 37 | Rhode Island | 351 | 0.5% |
| 38 | Hawaii | 341 | 0.5% |
| 39 | Delaware | 333 | 0.5% |
| 40 | Arkansas | 319 | 0.4% |
| 40 | New Mexico | 319 | 0.4% |
| 42 | North Dakota | 285 | 0.4% |
| 43 | Wyoming | 237 | 0.3% |
| 44 | Alabama | 232 | 0.3% |
| 44 | Mississippi | 232 | 0.3% |
| 46 | South Dakota | 220 | 0.3% |
| 47 | Kentucky | 187 | 0.3% |
| 48 | Alaska | 139 | 0.2% |
| 49 | Vermont | 114 | 0.2% |
| 50 | West Virginia | 88 | 0.1% |
| | District of Columbia | NA | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 226 (Kathleen O. Morgan et al. eds., 2011).

2009 Reported Juvenile Arrest Rate for Vandalism
269.5 Reported Juvenile Arrests per 100,000 Population

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Nebraska | 680.1 |
| 2 | Wisconsin | 601.3 |
| 3 | Nevada | 559.5 |
| 4 | Utah | 514.9 |
| 5 | Iowa | 486.4 |
| 6 | Arizona | 483.4 |
| 7 | North Dakota | 475.4 |
| 8 | Wyoming | 426.5 |
| 9 | Montana | 419.7 |
| 10 | Oregon | 409.8 |
| 11 | Delaware | 369.2 |
| 12 | Maine | 368.7 |
| 13 | Rhode Island | 344.7 |
| 14 | Colorado | 341.1 |
| 15 | California | 340.9 |
| 16 | New York | 340.0 |
| 17 | Washington | 331.6 |
| 18 | Pennsylvania | 318.7 |
| 19 | Hawaii | 315.4 |
| 20 | Minnesota | 314.1 |
| 21 | South Dakota | 307.6 |
| 22 | New Hampshire | 307.4 |
| 23 | Idaho | 307.3 |
| 24 | Missouri | 300.8 |
| 25 | New Jersey | 277.6 |
| 26 | Tennessee | 274.5 |
| 27 | Maryland | 273.2 |
| 28 | North Carolina | 233.7 |
| 29 | Ohio | 216.0 |
| 30 | Connecticut | 213.0 |
| 31 | Louisiana | 207.1 |
| 32 | Kansas | 199.1 |
| 33 | New Mexico | 194.7 |
| 34 | Texas | 194.6 |
| 35 | Vermont | 194.1 |
| 36 | Indiana | 192.7 |
| 37 | Alaska | 178.7 |
| 38 | South Carolina | 169.8 |
| 39 | Virginia | 156.2 |
| 40 | Massachusetts | 133.6 |
| 41 | Florida | 129.0 |
| 42 | Mississippi | 125.9 |
| 43 | Arkansas | 120.7 |
| 44 | Oklahoma | 119.5 |
| 45 | Georgia | 114.4 |
| 46 | Michigan | 103.6 |
| 47 | West Virginia | 99.1 |
| 48 | Kentucky | 78.3 |
| 49 | Alabama | 58.9 |
| NA | Illinois | NA |
| | District of Columbia | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, in Crime State Rankings 2011: Crime Across America 227 (Kathleen O. Morgan et al. eds., 2011).

2009 Reported Arrests of Juveniles for Drunkenness
134,301 Reported Arrests Nationally

| <i>Rank</i> | <i>State</i> | <i>Arrests</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | Texas | 20,955 | 15.6% |
| 2 | Wisconsin | 16,112 | 12.0% |
| 3 | Pennsylvania | 15,481 | 11.5% |
| 4 | California | 9,161 | 6.1% |
| 5 | Georgia | 4,866 | 3.6% |
| 6 | New Jersey | 3,653 | 2.1% |
| 7 | Minnesota | 3,581 | 2.7% |
| 8 | North Carolina | 3,354 | 2.5% |
| 9 | Tennessee | 3,289 | 2.4% |
| 10 | Illinois | 3,188 | 2.4% |
| 11 | Ohio | 3,171 | 2.4% |
| 12 | Arizona | 3,094 | 2.3% |
| 13 | Connecticut | 3,087 | 2.3% |
| 14 | South Carolina | 3,072 | 2.3% |
| 15 | Colorado | 3,064 | 2.3% |
| 16 | Missouri | 2,370 | 1.8% |
| 17 | Indiana | 2,349 | 1.7% |
| 18 | Louisiana | 2,264 | 1.7% |
| 19 | New York | 2,163 | 1.6% |
| 20 | Maryland | 2,089 | 1.6% |
| 21 | Iowa | 2,039 | 1.5% |
| 22 | Mississippi | 1,970 | 1.5% |
| 23 | Utah | 1,857 | 1.4% |
| 24 | Oregon | 1,506 | 1.1% |
| 25 | Oklahoma | 1,314 | 1.0% |
| 26 | Massachusetts | 1,290 | 1.0% |
| 27 | Michigan | 1,267 | 0.9% |
| 28 | Virginia | 1,249 | 0.9% |
| 29 | Nevada | 1,228 | 0.9% |
| 30 | Alabama | 1,149 | 0.9% |
| 31 | Arkansas | 1,031 | 0.8% |
| 32 | Rhode Island | 902 | 0.7% |
| 33 | Nebraska | 790 | 0.6% |
| 34 | North Dakota | 752 | 0.6% |
| 35 | Kansas | 681 | 0.5% |
| 36 | Washington | 612 | 0.5% |
| 37 | Montana | 588 | 0.4% |
| 38 | Kentucky | 571 | 0.4% |
| 39 | New Mexico | 561 | 0.4% |
| 40 | Idaho | 549 | 0.4% |
| 41 | Delaware | 541 | 0.4% |
| 42 | South Dakota | 298 | 0.2% |
| 43 | New Hampshire | 289 | 0.2% |
| 44 | Maine | 208 | 0.2% |
| 45 | Wyoming | 188 | 0.1% |
| 46 | Hawaii | 160 | 0.1% |
| 47 | Vermont | 125 | 0.1% |
| 48 | West Virginia | 69 | 0.1% |
| 49 | Alaska | 57 | 0.0% |
| NA | Florida | NA | NA |
| | District of Columbia | NA | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, in Crime State Rankings 2011: Crime Across America 229 (Kathleen O. Morgan et al. eds., 2011).

**2009 Juvenile Reported Arrests for Weapons Violations
28,293 Reported Arrests Nationally**

| <i>Rank</i> | <i>State</i> | <i>Arrests</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | California | 7,094 | 25.1% |
| 2 | Florida | 1,462 | 5.2% |
| 3 | Texas | 1,413 | 5.0% |
| 4 | New Jersey | 1,325 | 4.7% |
| 5 | North Carolina | 1,256 | 4.4% |
| 6 | Pennsylvania | 1,233 | 4.4% |
| 7 | Wisconsin | 1,095 | 3.9% |
| 8 | Maryland | 1,072 | 3.8% |
| 9 | Georgia | 1,060 | 3.7% |
| 10 | Illinois | 948 | 3.4% |
| 11 | Michigan | 713 | 2.5% |
| 12 | Tennessee | 663 | 2.3% |
| 13 | New York | 656 | 2.3% |
| 14 | Minnesota | 611 | 2.2% |
| 14 | Missouri | 611 | 2.2% |
| 16 | Ohio | 542 | 1.9% |
| 17 | South Carolina | 538 | 1.9% |
| 18 | Washington | 503 | 1.8% |
| 19 | Colorado | 473 | 1.7% |
| 20 | Arizona | 393 | 1.4% |
| 21 | Virginia | 392 | 1.4% |
| 22 | Utah | 383 | 1.4% |
| 23 | Nevada | 371 | 1.3% |
| 24 | Indiana | 300 | 1.1% |
| 25 | Connecticut | 289 | 1.0% |
| 26 | Oklahoma | 278 | 1.0% |
| 27 | Louisiana | 252 | 0.9% |
| 28 | Massachusetts | 240 | 0.8% |
| 28 | Mississippi | 240 | 0.8% |
| 30 | Oregon | 217 | 0.8% |
| 31 | New Mexico | 201 | 0.7% |
| 32 | Rhode Island | 170 | 0.6% |
| 33 | Arkansas | 143 | 0.5% |
| 34 | Delaware | 137 | 0.5% |
| 34 | Idaho | 137 | 0.5% |
| 36 | Nebraska | 132 | 0.5% |
| 37 | Alabama | 123 | 0.4% |
| 38 | Iowa | 111 | 0.4% |
| 39 | Kansas | 99 | 0.3% |
| 40 | Kentucky | 96 | 0.3% |
| 41 | South Dakota | 65 | 0.2% |
| 42 | Maine | 47 | 0.2% |
| 43 | Alaska | 39 | 0.1% |
| 44 | Wyoming | 35 | 0.1% |
| 45 | Hawaii | 31 | 0.1% |
| 46 | North Dakota | 28 | 0.1% |
| 47 | West Virginia | 20 | 0.1% |
| 48 | New Hampshire | 15 | 0.1% |
| 48 | Vermont | 15 | 0.1% |
| 50 | Montana | 13 | 0.0% |
| | District of Columbia | NA | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 232 (Kathleen O. Morgan et al. eds., 2011).

**2009 Juvenile Reported Arrest Rate for Weapons
103.3 Reported Arrest Rate Nationally per 100,000 Population**

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Wisconsin | 195.4 |
| 2 | Maryland | 179.9 |
| 3 | North Carolina | 174.2 |
| 4 | California | 173.8 |
| 5 | Rhode Island | 166.9 |
| 6 | Delaware | 151.9 |
| 7 | New Jersey | 146.7 |
| 8 | Georgia | 139.9 |
| 9 | Nevada | 134.9 |
| 10 | Tennessee | 130.4 |
| 11 | Mississippi | 130.2 |
| 12 | New Mexico | 122.7 |
| 13 | South Carolina | 118.8 |
| 14 | Minnesota | 114.2 |
| 15 | Utah | 112.4 |
| 16 | Missouri | 103.0 |
| 17 | Colorado | 102.5 |
| 18 | Pennsylvania | 102.3 |
| 19 | Washington | 99.1 |
| 20 | Louisiana | 95.0 |
| 21 | South Dakota | 90.9 |
| 22 | Florida | 82.3 |
| 23 | Idaho | 78.4 |
| 24 | Nebraska | 77.5 |
| 25 | Connecticut | 76.8 |
| 26 | Oklahoma | 73.7 |
| 27 | Michigan | 67.7 |
| 28 | Wyoming | 63.0 |
| 29 | Ohio | 62.3 |
| 30 | New York | 60.0 |
| 31 | Oregon | 59.5 |
| 32 | Indiana | 58.3 |
| 33 | Arizona | 55.4 |
| 34 | Arkansas | 54.1 |
| 35 | Virginia | 51.4 |
| 36 | Texas | 50.6 |
| 37 | Kansas | 50.5 |
| 38 | Alaska | 50.1 |
| 39 | North Dakota | 46.7 |
| 40 | Kentucky | 40.2 |
| 41 | Massachusetts | 39.5 |
| 42 | Iowa | 38.8 |
| 43 | Maine | 36.8 |
| 44 | Alabama | 31.2 |
| 45 | Hawaii | 28.7 |
| 46 | Vermont | 25.5 |
| 47 | West Virginia | 22.5 |
| 48 | Montana | 14.2 |
| 49 | New Hampshire | 12.4 |
| NA | Illinois | NA |
| | District of Columbia | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, in Crime State Rankings 2011: Crime Across America 233 (Kathleen O. Morgan et al. eds., 2011).

**2006 Juveniles in Residential Custody
92,854 Juveniles Nationally**

| <i>Rank</i> | <i>State</i> | <i>Juveniles</i> | <i>% of USA</i> |
|-------------|----------------------|------------------|-----------------|
| 1 | California | 15,240 | 16.4% |
| 2 | Texas | 8,247 | 8.9% |
| 3 | Florida | 7,302 | 7.9% |
| 4 | Pennsylvania | 4,323 | 4.7% |
| 5 | New York | 4,197 | 4.5% |
| 6 | Ohio | 4,149 | 4.5% |
| 7 | Michigan | 2,760 | 3.0% |
| 8 | Georgia | 2,631 | 2.8% |
| 8 | Illinois | 2,631 | 2.8% |
| 10 | Indiana | 2,616 | 2.8% |
| 11 | Virginia | 2,310 | 2.5% |
| 12 | Colorado | 2,034 | 2.2% |
| 13 | Alabama | 1,752 | 1.9% |
| 14 | Arizona | 1,737 | 1.9% |
| 15 | New Jersey | 1,704 | 1.8% |
| 16 | Minnesota | 1,623 | 1.7% |
| 17 | Washington | 1,455 | 1.6% |
| 18 | Tennessee | 1,419 | 1.5% |
| 19 | Wisconsin | 1,347 | 1.5% |
| 20 | South Carolina | 1,320 | 1.4% |
| 21 | Missouri | 1,293 | 1.4% |
| 22 | Oregon | 1,254 | 1.4% |
| 23 | Kentucky | 1,242 | 1.3% |
| 24 | Louisiana | 1,200 | 1.3% |
| 25 | Massachusetts | 1,164 | 1.3% |
| 26 | Maryland | 1,104 | 1.2% |
| 27 | Iowa | 1,062 | 1.1% |
| 28 | Kansas | 1,053 | 1.1% |
| 29 | North Carolina | 1,029 | 1.1% |
| 30 | Oklahoma | 924 | 1.0% |
| 31 | Nevada | 885 | 1.0% |
| 32 | Utah | 864 | 0.9% |
| 33 | Arkansas | 813 | 0.9% |
| 34 | Nebraska | 735 | 0.8% |
| 35 | South Dakota | 597 | 0.6% |
| 36 | West Virginia | 579 | 0.6% |
| 37 | Idaho | 522 | 0.6% |
| 38 | Connecticut | 498 | 0.5% |
| 39 | New Mexico | 471 | 0.5% |
| 40 | Mississippi | 444 | 0.5% |
| 41 | Alaska | 363 | 0.4% |
| 42 | Rhode Island | 348 | 0.4% |
| 43 | Wyoming | 315 | 0.3% |
| 44 | Delaware | 303 | 0.3% |
| 45 | Montana | 243 | 0.3% |
| 46 | North Dakota | 240 | 0.3% |
| 47 | Maine | 210 | 0.2% |
| 48 | New Hampshire | 189 | 0.2% |
| 49 | Hawaii | 123 | 0.1% |
| 50 | Vermont | 54 | 0.1% |
| | District of Columbia | 339 | 0.4% |

Source: Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, Census of Juveniles in Residential Placement Databook, *in* Crime State Rankings 2011: Crime Across America 251 (Kathleen O. Morgan et al. eds., 2011).

**2006 Rate of Juveniles in Residential Custody
295 Juveniles Nationally per 100,000 Population**

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | South Dakota | 672 |
| 2 | Wyoming | 559 |
| 3 | Alaska | 430 |
| 4 | Colorado | 397 |
| 4 | Florida | 397 |
| 6 | Nebraska | 368 |
| 7 | Indiana | 364 |
| 8 | North Dakota | 355 |
| 9 | California | 351 |
| 10 | Alabama | 342 |
| 11 | Kansas | 335 |
| 11 | Texas | 335 |
| 13 | Delaware | 327 |
| 14 | Iowa | 323 |
| 15 | Ohio | 322 |
| 16 | Pennsylvania | 321 |
| 17 | West Virginia | 320 |
| 18 | Oregon | 319 |
| 19 | Nevada | 317 |
| 19 | South Carolina | 317 |
| 21 | Rhode Island | 308 |
| 22 | Idaho | 297 |
| 23 | Virginia | 283 |
| 24 | Minnesota | 280 |
| 25 | Louisiana | 279 |
| 26 | Georgia | 276 |
| 27 | Kentucky | 273 |
| 28 | New York | 270 |
| 29 | Michigan | 268 |
| 30 | Utah | 267 |
| 31 | Arkansas | 261 |
| 32 | Wisconsin | 251 |
| 33 | Arizona | 246 |
| 34 | Montana | 235 |
| 35 | Oklahoma | 232 |
| 36 | Missouri | 227 |
| 37 | Tennessee | 216 |
| 38 | Illinois | 206 |
| 38 | Washington | 206 |
| 40 | New Mexico | 204 |
| 41 | Massachusetts | 198 |
| 42 | New Jersey | 176 |
| 43 | Maryland | 174 |
| 44 | Connecticut | 170 |
| 45 | Maine | 152 |
| 46 | New Hampshire | 148 |
| 47 | North Carolina | 144 |
| 48 | Mississippi | 128 |
| 49 | Hawaii | 92 |
| 50 | Vermont | 81 |
| | District of Columbia | 671 |

Source: Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, Census of Juveniles in Residential Placement Databook, *in* Crime State Rankings 2011: Crime Across America 252 (Kathleen O. Morgan et al. eds., 2011).

**2006 Percent of Juveniles Who Are in Custody Who Are White
35% Nationally**

| <i>Rank</i> | <i>State</i> | <i>Percent</i> |
|-------------|----------------------|----------------|
| 1 | Maine | 91 |
| 2 | Vermont | 83 |
| 3 | West Virginia | 81 |
| 4 | Idaho | 80 |
| 5 | New Hampshire | 78 |
| 6 | Iowa | 69 |
| 7 | Oregon | 68 |
| 8 | Montana | 67 |
| 9 | Kentucky | 65 |
| 10 | Wyoming | 64 |
| 11 | Indiana | 62 |
| 12 | Utah | 60 |
| 13 | North Dakota | 59 |
| 14 | Washington | 58 |
| 15 | Nebraska | 52 |
| 16 | Kansas | 48 |
| 17 | Arkansas | 47 |
| 17 | Colorado | 47 |
| 17 | Missouri | 47 |
| 17 | Tennessee | 47 |
| 21 | Ohio | 46 |
| 22 | Wisconsin | 45 |
| 23 | Michigan | 44 |
| 23 | Minnesota | 44 |
| 23 | South Dakota | 44 |
| 26 | Oklahoma | 43 |
| 27 | Alabama | 40 |
| 27 | Nevada | 40 |
| 29 | Florida | 39 |
| 30 | Rhode Island | 38 |
| 31 | Alaska | 37 |
| 32 | Arizona | 36 |
| 32 | Massachusetts | 36 |
| 34 | Pennsylvania | 33 |
| 35 | Illinois | 32 |
| 35 | North Carolina | 32 |
| 37 | South Carolina | 30 |
| 38 | Virginia | 29 |
| 39 | Louisiana | 26 |
| 40 | Georgia | 24 |
| 40 | Mississippi | 24 |
| 40 | New York | 24 |
| 40 | Texas | 24 |
| 44 | Connecticut | 23 |
| 44 | Maryland | 23 |
| 46 | Delaware | 20 |
| 47 | California | 16 |
| 47 | New Jersey | 16 |
| 49 | New Mexico | 13 |
| 50 | Hawaii | 5 |
| | District of Columbia | 4 |

Source: Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, Census of Juveniles in Residential Placement Databook, *in* Crime State Rankings 2011: Crime Across America 255 (Kathleen O. Morgan et al. eds., 2011).

2006 Rate of Black Juveniles in Residential Custody
767 Black Juveniles per 100,000 Nationally

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Wyoming | 4,138 |
| 2 | South Dakota | 3,049 |
| 3 | Utah | 1,981 |
| 4 | Iowa | 1,525 |
| 5 | Rhode Island | 1,501 |
| 6 | Nebraska | 1,471 |
| 7 | Minnesota | 1,364 |
| 8 | California | 1,268 |
| 9 | Colorado | 1,234 |
| 10 | New Hampshire | 1,233 |
| 11 | Kansas | 1,230 |
| 12 | Pennsylvania | 1,229 |
| 13 | Wisconsin | 1,206 |
| 14 | West Virginia | 1,205 |
| 15 | Oregon | 1,104 |
| 16 | Montana | 1,038 |
| 17 | Ohio | 989 |
| 18 | Florida | 972 |
| 19 | Indiana | 945 |
| 20 | Alaska | 902 |
| 20 | Nevada | 902 |
| 22 | Delaware | 893 |
| 23 | Kentucky | 865 |
| 24 | Texas | 843 |
| 25 | Oklahoma | 756 |
| 26 | New York | 754 |
| 27 | Virginia | 741 |
| 28 | Massachusetts | 706 |
| 29 | New Jersey | 705 |
| 30 | Missouri | 701 |
| 31 | Washington | 698 |
| 32 | Arizona | 658 |
| 33 | Michigan | 654 |
| 34 | Connecticut | 618 |
| 35 | Alabama | 610 |
| 36 | South Carolina | 605 |
| 37 | Arkansas | 595 |
| 38 | New Mexico | 550 |
| 39 | Georgia | 544 |
| 40 | Louisiana | 521 |
| 41 | Illinois | 500 |
| 42 | Tennessee | 483 |
| 43 | Maine | 447 |
| 44 | Idaho | 382 |
| 45 | Vermont | 381 |
| 46 | Maryland | 364 |
| 47 | North Dakota | 318 |
| 48 | North Carolina | 315 |
| 49 | Mississippi | 213 |
| 50 | Hawaii | 65 |
| | District of Columbia | 789 |

Source: Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, Census of Juveniles in Residential Placement Databook, *in* Crime State Rankings 2011: Crime Across America 256 (Kathleen O. Morgan et al. eds., 2011).

**2006 Percent of Black Juveniles in Residential Custody
40% Nationally**

| <i>Rank</i> | <i>State</i> | <i>Percent</i> |
|-------------|----------------------|----------------|
| 1 | Mississippi | 76 |
| 2 | Louisiana | 73 |
| 3 | Delaware | 72 |
| 4 | Georgia | 71 |
| 4 | Maryland | 71 |
| 6 | South Carolina | 69 |
| 7 | New Jersey | 66 |
| 8 | Virginia | 63 |
| 9 | North Carolina | 59 |
| 10 | Alabama | 58 |
| 11 | Pennsylvania | 54 |
| 12 | Florida | 52 |
| 12 | New York | 52 |
| 14 | Ohio | 49 |
| 14 | Tennessee | 49 |
| 16 | Missouri | 48 |
| 17 | Arkansas | 47 |
| 17 | Illinois | 47 |
| 17 | Michigan | 47 |
| 20 | Wisconsin | 45 |
| 21 | Connecticut | 44 |
| 22 | Rhode Island | 35 |
| 23 | Oklahoma | 34 |
| 24 | Minnesota | 33 |
| 24 | Texas | 33 |
| 26 | Indiana | 31 |
| 26 | Kentucky | 31 |
| 28 | Kansas | 29 |
| 28 | Massachusetts | 29 |
| 30 | California | 28 |
| 30 | Nevada | 28 |
| 32 | Nebraska | 25 |
| 33 | Iowa | 19 |
| 34 | Washington | 18 |
| 35 | Colorado | 16 |
| 35 | West Virginia | 16 |
| 37 | Arizona | 12 |
| 38 | Alaska | 11 |
| 38 | New Hampshire | 11 |
| 40 | Oregon | 10 |
| 40 | Utah | 10 |
| 40 | Wyoming | 10 |
| 43 | South Dakota | 8 |
| 44 | New Mexico | 6 |
| 44 | Vermont | 6 |
| 46 | Maine | 4 |
| 46 | Montana | 4 |
| 48 | Hawaii | 2 |
| 49 | Idaho | 1 |
| 49 | North Dakota | 1 |
| | District of Columbia | 91 |

Source: Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, Census of Juveniles in Residential Placement Databook, *in* Crime State Rankings 2011: Crime Across America 257 (Kathleen O. Morgan et al. eds., 2011).

**2006 Rate of Hispanic Juveniles in Residential Custody
326 Juveniles per 100,000 Population Nationally**

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | South Dakota | 1,139 |
| 2 | Wyoming | 945 |
| 3 | Vermont | 613 |
| 4 | Nebraska | 565 |
| 5 | Pennsylvania | 560 |
| 6 | Kansas | 553 |
| 7 | Colorado | 544 |
| 8 | Utah | 513 |
| 9 | Massachusetts | 474 |
| 10 | New Hampshire | 399 |
| 11 | California | 396 |
| 12 | North Dakota | 387 |
| 13 | Iowa | 361 |
| 14 | Indiana | 356 |
| 15 | Connecticut | 337 |
| 16 | Texas | 335 |
| 17 | Montana | 333 |
| 18 | Rhode Island | 327 |
| 19 | Oregon | 316 |
| 20 | Idaho | 305 |
| 21 | New York | 290 |
| 22 | Delaware | 285 |
| 22 | New Mexico | 285 |
| 24 | West Virginia | 283 |
| 25 | Arizona | 282 |
| 26 | Virginia | 275 |
| 27 | Minnesota | 274 |
| 28 | Nevada | 261 |
| 29 | Ohio | 252 |
| 29 | Washington | 252 |
| 31 | Michigan | 214 |
| 32 | Oklahoma | 207 |
| 33 | Kentucky | 203 |
| 34 | Missouri | 199 |
| 35 | Arkansas | 196 |
| 35 | Illinois | 196 |
| 37 | Alabama | 195 |
| 38 | Alaska | 178 |
| 39 | New Jersey | 176 |
| 40 | Georgia | 173 |
| 41 | Tennessee | 147 |
| 42 | Florida | 140 |
| 43 | Wisconsin | 135 |
| 44 | North Carolina | 121 |
| 45 | Maryland | 116 |
| 46 | Hawaii | 108 |
| 47 | South Carolina | 100 |
| 48 | Louisiana | 71 |
| 49 | Maine | 0 |
| 49 | Mississippi | 0 |
| | District of Columbia | 274 |

Source: Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, Census of Juveniles in Residential Placement Databook, *in* Crime State Rankings 2011: Crime Across America 258 (Kathleen O. Morgan et al. eds., 2011).

2006 Percent of Hispanic Juveniles in Residential Custody
20% Nationally

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | New Mexico | 72 |
| 2 | California | 51 |
| 3 | Arizona | 44 |
| 4 | Texas | 42 |
| 5 | Colorado | 34 |
| 6 | Connecticut | 29 |
| 7 | Massachusetts | 27 |
| 8 | Nevada | 26 |
| 9 | Utah | 25 |
| 10 | New York | 21 |
| 11 | Kansas | 19 |
| 12 | Illinois | 17 |
| 12 | New Jersey | 17 |
| 12 | Rhode Island | 17 |
| 15 | Nebraska | 15 |
| 15 | Washington | 15 |
| 15 | Wyoming | 15 |
| 18 | Oregon | 14 |
| 19 | Idaho | 13 |
| 20 | Hawaii | 12 |
| 21 | Vermont | 11 |
| 22 | Pennsylvania | 10 |
| 23 | Florida | 8 |
| 23 | New Hampshire | 8 |
| 23 | Oklahoma | 8 |
| 26 | Delaware | 7 |
| 26 | Virginia | 7 |
| 28 | Indiana | 6 |
| 28 | Iowa | 6 |
| 28 | North Carolina | 6 |
| 31 | Arkansas | 5 |
| 31 | Georgia | 5 |
| 31 | Minnesota | 5 |
| 31 | Montana | 5 |
| 31 | South Dakota | 5 |
| 36 | Maryland | 4 |
| 36 | Michigan | 4 |
| 38 | Missouri | 3 |
| 38 | North Dakota | 3 |
| 38 | Wisconsin | 3 |
| 41 | Alabama | 2 |
| 41 | Alaska | 2 |
| 41 | Kentucky | 2 |
| 41 | Ohio | 2 |
| 41 | Tennessee | 2 |
| 46 | Louisiana | 1 |
| 46 | South Carolina | 1 |
| 46 | West Virginia | 1 |
| 49 | Maine | 0 |
| 49 | Mississippi | 0 |
| | District of Columbia | 4 |

Source: Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, Census of Juveniles in Residential Placement Databook, *in* Crime State Rankings 2011: Crime Across America 259 (Kathleen O. Morgan et al. eds., 2011).

**2008 Percentage of Teachers Who Reported Being Physically Attacked by a Student
4.3% of Teachers Nationally**

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Maryland | 8.4 |
| 2 | Alaska | 6.7 |
| 3 | Minnesota | 6.6 |
| 3 | Wisconsin | 6.6 |
| 5 | New York | 6.4 |
| 6 | Virginia | 6.0 |
| 7 | North Carolina | 5.9 |
| 8 | Kentucky | 5.8 |
| 9 | Delaware | 5.4 |
| 10 | Missouri | 5.3 |
| 11 | Maine | 5.2 |
| 12 | Arizona | 5.0 |
| 12 | Kansas | 5.0 |
| 14 | Colorado | 4.7 |
| 14 | Indiana | 4.7 |
| 16 | South Dakota | 4.5 |
| 17 | New Mexico | 4.3 |
| 18 | Nebraska | 4.2 |
| 18 | Texas | 4.2 |
| 18 | Vermont | 4.2 |
| 21 | Hawaii | 4.1 |
| 21 | Massachusetts | 4.1 |
| 21 | Washington | 4.1 |
| 24 | Florida | 4.0 |
| 24 | Georgia | 4.0 |
| 24 | Louisiana | 4.0 |
| 24 | Montana | 4.0 |
| 28 | Arkansas | 3.9 |
| 28 | Illinois | 3.9 |
| 28 | Oregon | 3.9 |
| 28 | Tennessee | 3.9 |
| 28 | West Virginia | 3.9 |
| 33 | Pennsylvania | 3.8 |
| 33 | Utah | 3.8 |
| 35 | California | 3.6 |
| 36 | Michigan | 3.5 |
| 37 | Connecticut | 3.3 |
| 37 | Nevada | 3.3 |
| 39 | Alabama | 3.2 |
| 40 | Iowa | 3.1 |
| 40 | Oklahoma | 3.1 |
| 42 | Wyoming | 3.0 |
| 43 | Idaho | 2.9 |
| 43 | Mississippi | 2.9 |
| 43 | South Carolina | 2.9 |
| 46 | New Hampshire | 2.2 |
| 46 | Ohio | 2.2 |
| 48 | New Jersey | 1.8 |
| 49 | North Dakota | 1.7 |
| NA | Rhode Island | NA |
| | District of Columbia | 7.1 |

Source: U.S. Dep't of Educ. & Bureau of Justice Statistics, U.S. Dep't of Justice, *in Crime State Rankings 2011: Crime Across America 265* (Kathleen O. Morgan et al. eds., 2011).

2009 Percent of High School Students Who Drink Alcohol

| <i>Rank</i> | <i>State</i> | <i>Percent</i> |
|-------------|----------------------|----------------|
| 1 | Louisiana | 47.5% |
| 2 | New Jersey | 45.2% |
| 3 | Texas | 44.8% |
| 4 | Arizona | 44.5% |
| 5 | Delaware | 43.7% |
| 6 | Massachusetts | 43.6% |
| 7 | Connecticut | 43.5% |
| 8 | North Dakota | 43.3% |
| 9 | Montana | 42.8% |
| 10 | Wyoming | 41.7% |
| 11 | New York | 41.4% |
| 12 | Wisconsin | 41.3% |
| 13 | Colorado | 40.8% |
| 14 | Florida | 40.5% |
| 14 | New Mexico | 40.5% |
| 16 | West Virginia | 40.4% |
| 17 | South Dakota | 40.1% |
| 18 | Illinois | 39.8% |
| 19 | Arkansas | 39.7% |
| 20 | Alabama | 39.5% |
| 21 | Missouri | 39.3% |
| 21 | New Hampshire | 39.3% |
| 23 | Mississippi | 39.2% |
| 24 | Oklahoma | 39.0% |
| 24 | Vermont | 39.0% |
| 26 | Kansas | 38.7% |
| 27 | Nevada | 38.6% |
| 28 | Indiana | 38.5% |
| 29 | Pennsylvania | 38.4% |
| 30 | Hawaii | 37.8% |
| 30 | Kentucky | 37.8% |
| 32 | Maryland | 37.0% |
| 32 | Michigan | 37.0% |
| 34 | South Carolina | 35.2% |
| 35 | North Carolina | 35.0% |
| 36 | Georgia | 34.3% |
| 37 | Idaho | 34.2% |
| 38 | Rhode Island | 34.0% |
| 39 | Tennessee | 33.5% |
| 40 | Alaska | 33.2% |
| 41 | Maine | 32.2% |
| 42 | Utah | 18.2% |
| 43 | California | NA |
| 44 | Iowa | NA |
| 45 | Minnesota | NA |
| 46 | Nebraska | NA |
| 47 | Ohio | NA |
| 48 | Oregon | NA |
| 49 | Virginia | NA |
| 50 | Washington | NA |
| | District of Columbia | NA |

Source: Ctrs. for Disease Control & Prevention, U.S. Dep't of Health & Human Servs., Youth Risk Behavior Surveillance — U.S., 2009, in Crime State Rankings 2011: Crime Across America 267 (Kathleen O. Morgan et al. eds., 2011).

2009 Percent of High School Students Who Use Marijuana

| Rank | State | Percent |
|------|----------------------|---------|
| 1 | New Mexico | 28.0% |
| 2 | Massachusetts | 27.1% |
| 3 | Rhode Island | 26.3% |
| 4 | Delaware | 25.8% |
| 5 | New Hampshire | 25.6% |
| 6 | Colorado | 24.8% |
| 7 | Vermont | 24.6% |
| 8 | Arizona | 23.7% |
| 9 | Montana | 23.1% |
| 10 | Alaska | 22.7% |
| 11 | Hawaii | 22.1% |
| 12 | Maryland | 21.9% |
| 13 | Connecticut | 21.8% |
| 14 | Florida | 21.4% |
| 15 | Illinois | 21.0% |
| 16 | Indiana | 20.9% |
| 16 | New York | 20.9% |
| 18 | Michigan | 20.7% |
| 19 | Missouri | 20.6% |
| 20 | Maine | 20.5% |
| 21 | South Carolina | 20.4% |
| 22 | New Jersey | 20.3% |
| 22 | West Virginia | 20.3% |
| 24 | Tennessee | 20.1% |
| 25 | Nevada | 20.0% |
| 26 | North Carolina | 19.8% |
| 27 | Texas | 19.5% |
| 28 | Pennsylvania | 19.3% |
| 29 | Wisconsin | 18.9% |
| 30 | Georgia | 18.3% |
| 31 | Arkansas | 17.8% |
| 32 | Mississippi | 17.7% |
| 33 | Oklahoma | 17.2% |
| 34 | North Dakota | 16.9% |
| 34 | Wyoming | 16.9% |
| 36 | Louisiana | 16.3% |
| 37 | Alabama | 16.2% |
| 38 | Kentucky | 16.1% |
| 39 | South Dakota | 15.2% |
| 40 | Kansas | 14.7% |
| 41 | Idaho | 13.7% |
| 42 | Utah | 10.0% |
| 43 | California | NA |
| 44 | Iowa | NA |
| 45 | Minnesota | NA |
| 46 | Nebraska | NA |
| 47 | Ohio | NA |
| 48 | Oregon | NA |
| 49 | Virginia | NA |
| 50 | Washington | NA |
| | District of Columbia | NA |

Source: Ctrs. for Disease Control & Prevention, U.S. Dep't of Health & Human Servs., Youth Risk Behavior Surveillance—U.S., 2009, *in* Crime State Rankings 2011: Crime Across America 268 (Kathleen O. Morgan et al. eds., 2011).

2009 Child Abuse and Neglect per 1000 Population Under 18

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Massachusetts | 27.2 |
| 2 | Alaska | 21.6 |
| 3 | New York | 20.4 |
| 4 | Iowa | 18.2 |
| 5 | Kentucky | 17.2 |
| 6 | Utah | 15.8 |
| 7 | Indiana | 15.2 |
| 8 | Maine | 15.0 |
| 9 | Arkansas | 14.9 |
| 10 | West Virginia | 14.2 |
| 11 | Michigan | 13.8 |
| 12 | Oregon | 13.5 |
| 12 | Rhode Island | 13.5 |
| 14 | Ohio | 12.6 |
| 15 | Maryland | 12.4 |
| 16 | Connecticut | 12.1 |
| 16 | Florida | 12.1 |
| 16 | Nebraska | 12.1 |
| 19 | South Carolina | 11.8 |
| 20 | North Carolina | 10.8 |
| 21 | New Mexico | 10.5 |
| 22 | Mississippi | 10.3 |
| 23 | Delaware | 10.0 |
| 23 | Texas | 10.0 |
| 25 | Colorado | 9.7 |
| 26 | Illinois | 9.4 |
| 27 | Georgia | 9.3 |
| 28 | North Dakota | 8.7 |
| 29 | Louisiana | 8.6 |
| 30 | California | 8.5 |
| 31 | Oklahoma | 8.3 |
| 32 | South Dakota | 7.6 |
| 33 | Montana | 7.4 |
| 34 | Alabama | 7.3 |
| 35 | Hawaii | 7.1 |
| 36 | Nevada | 6.9 |
| 37 | Tennessee | 6.2 |
| 38 | Vermont | 6.0 |
| 39 | Wyoming | 5.5 |
| 40 | New Jersey | 4.5 |
| 41 | Washington | 4.2 |
| 42 | Idaho | 3.9 |
| 42 | Minnesota | 3.9 |
| 44 | Missouri | 3.8 |
| 44 | Wisconsin | 3.8 |
| 46 | New Hampshire | 3.4 |
| 47 | Virginia | 3.3 |
| 48 | Arizona | 2.3 |
| 49 | Kansas | 1.9 |
| 50 | Pennsylvania | 1.5 |
| | District of Columbia | 29.9 |

Source: Children’s Bureau, U.S. Dep’t of Health & Human Servs., Child Maltreatment 2009, *in* Crime State Rankings 2011: Crime Across America 271 (Kathleen O. Morgan et al. eds., 2011).

2009 Physically Abused Children per 1000 Population Under 18

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Ohio | 4.3 |
| 2 | South Carolina | 3.9 |
| 2 | West Virginia | 3.9 |
| 4 | Alabama | 3.5 |
| 5 | Massachusetts | 3.3 |
| 6 | Michigan | 3.0 |
| 7 | Maryland | 2.9 |
| 7 | Vermont | 2.9 |
| 9 | Arkansas | 2.7 |
| 10 | Alaska | 2.5 |
| 10 | Maine | 2.5 |
| 12 | Louisiana | 2.3 |
| 13 | Iowa | 2.1 |
| 13 | Texas | 2.1 |
| 15 | New York | 2.0 |
| 16 | Illinois | 1.9 |
| 16 | Nevada | 1.9 |
| 16 | Utah | 1.9 |
| 19 | Delaware | 1.8 |
| 19 | Mississippi | 1.8 |
| 19 | Rhode Island | 1.8 |
| 22 | Indiana | 1.7 |
| 23 | Kentucky | 1.6 |
| 24 | Oklahoma | 1.5 |
| 25 | Colorado | 1.4 |
| 25 | New Mexico | 1.4 |
| 27 | Nebraska | 1.3 |
| 28 | Florida | 1.2 |
| 28 | Georgia | 1.2 |
| 28 | Missouri | 1.2 |
| 31 | North Carolina | 1.1 |
| 32 | Montana | 1.0 |
| 32 | Washington | 1.0 |
| 34 | California | 0.9 |
| 34 | South Dakota | 0.9 |
| 34 | Tennessee | 0.9 |
| 34 | Virginia | 0.9 |
| 38 | Connecticut | 0.8 |
| 38 | Idaho | 0.8 |
| 38 | Minnesota | 0.8 |
| 38 | New Jersey | 0.8 |
| 38 | Wisconsin | 0.8 |
| 43 | Hawaii | 0.7 |
| 44 | Arizona | 0.6 |
| 45 | Pennsylvania | 0.5 |
| 46 | Kansas | 0.4 |
| 46 | New Hampshire | 0.4 |
| 46 | Wyoming | 0.4 |
| 49 | North Dakota | NA |
| 50 | Oregon | NA |
| | District of Columbia | 4.5 |

Source: Children's Bureau, U.S. Dep't of Health & Human Servs., Child Maltreatment 2009, *in* Crime State Rankings 2011: Crime Across America 273 (Kathleen O. Morgan et al. eds., 2011).

**2004 Number of Federal Law Enforcement Officers
104,884 Total Officers Nationally**

| <i>Rank</i> | <i>State</i> | <i>Officers</i> | <i>% of USA</i> |
|-------------|----------------------|-----------------|-----------------|
| 1 | Texas | 14,663 | 14.0% |
| 2 | California | 13,365 | 12.7% |
| 3 | New York | 8,159 | 7.8% |
| 4 | Florida | 6,627 | 6.3% |
| 5 | Arizona | 5,143 | 4.9% |
| 6 | Virginia | 4,086 | 3.9% |
| 7 | Pennsylvania | 3,436 | 3.3% |
| 8 | Illinois | 2,988 | 2.8% |
| 9 | Georgia | 2,500 | 2.4% |
| 10 | New Jersey | 2,453 | 2.3% |
| 11 | Michigan | 2,260 | 2.2% |
| 12 | Washington | 2,042 | 1.9% |
| 13 | Maryland | 1,558 | 1.5% |
| 14 | Colorado | 1,554 | 1.5% |
| 15 | Massachusetts | 1,437 | 1.4% |
| 16 | Louisiana | 1,430 | 1.4% |
| 17 | Kentucky | 1,411 | 1.3% |
| 18 | North Carolina | 1,344 | 1.3% |
| 19 | New Mexico | 1,281 | 1.2% |
| 20 | Ohio | 1,249 | 1.2% |
| 21 | Missouri | 1,208 | 1.2% |
| 22 | Tennessee | 1,201 | 1.1% |
| 23 | Minnesota | 1,067 | 1.0% |
| 24 | South Carolina | 959 | 0.9% |
| 25 | West Virginia | 844 | 0.8% |
| 26 | Oklahoma | 825 | 0.8% |
| 27 | Alabama | 779 | 0.7% |
| 28 | Oregon | 737 | 0.7% |
| 29 | Indiana | 699 | 0.7% |
| 30 | Hawaii | 677 | 0.6% |
| 31 | Montana | 629 | 0.6% |
| 32 | Kansas | 594 | 0.6% |
| 33 | Mississippi | 574 | 0.5% |
| 34 | Arkansas | 555 | 0.5% |
| 35 | Maine | 548 | 0.5% |
| 36 | Nevada | 499 | 0.5% |
| 37 | North Dakota | 498 | 0.5% |
| 38 | Wisconsin | 478 | 0.5% |
| 39 | Connecticut | 461 | 0.4% |
| 40 | Vermont | 434 | 0.4% |
| 41 | Alaska | 399 | 0.4% |
| 42 | Utah | 362 | 0.3% |
| 43 | Idaho | 338 | 0.3% |
| 44 | Nebraska | 292 | 0.3% |
| 45 | South Dakota | 264 | 0.3% |
| 46 | Iowa | 219 | 0.2% |
| 47 | Wyoming | 215 | 0.2% |
| 48 | Rhode Island | 151 | 0.1% |
| 49 | Delaware | 112 | 0.1% |
| 49 | New Hampshire | 112 | 0.1% |
| | District of Columbia | 9,201 | 8.8% |

Source: Bureau of Justice Statistics, U.S. Dep't of Justice, Federal Law Enforcement Officers, 2004, in Crime State Rankings 2011: Crime Across America 284 (Kathleen O. Morgan et al. eds., 2011).

**2009 Number of State Government Law Enforcement Officers
72,160 Total Officers Nationally**

| <i>Rank</i> | <i>State</i> | <i>Officers</i> | <i>% of USA</i> |
|-------------|-----------------------|-----------------|-----------------|
| 1 | California | 8,607 | 11.9% |
| 2 | New York | 5,092 | 7.1% |
| 3 | Pennsylvania | 4,657 | 6.5% |
| 4 | New Jersey | 4,481 | 6.2% |
| 5 | Texas | 3,504 | 4.9% |
| 6 | Florida | 2,694 | 3.7% |
| 7 | Massachusetts | 2,595 | 3.6% |
| 8 | Maryland | 2,490 | 3.5% |
| 9 | Illinois | 2,391 | 3.3% |
| 10 | North Carolina | 2,289 | 3.2% |
| 11 | Virginia | 2,240 | 3.1% |
| 12 | Ohio | 2,024 | 2.8% |
| 13 | South Carolina | 1,684 | 2.3% |
| 14 | Michigan | 1,669 | 2.3% |
| 15 | Missouri | 1,611 | 2.2% |
| 16 | Tennessee | 1,468 | 2.0% |
| 17 | Kentucky | 1,413 | 2.0% |
| 18 | Indiana | 1,391 | 1.9% |
| 19 | Georgia | 1,270 | 1.8% |
| 20 | Louisiana | 1,242 | 1.7% |
| 21 | Arizona | 1,241 | 1.7% |
| 22 | Connecticut | 1,170 | 1.6% |
| 23 | Washington | 1,098 | 1.5% |
| 24 | Delaware | 1,035 | 1.4% |
| 25 | Alabama | 1,009 | 1.4% |
| 26 | Wisconsin | 923 | 1.3% |
| 27 | Oklahoma | 862 | 1.2% |
| 28 | Kansas | 858 | 1.2% |
| 29 | Colorado | 844 | 1.2% |
| 30 | West Virginia | 843 | 1.2% |
| 31 | Iowa | 658 | 0.9% |
| 32 | Oregon | 612 | 0.8% |
| 33 | Arkansas | 589 | 0.8% |
| 34 | Minnesota | 576 | 0.8% |
| 34 | Utah | 576 | 0.8% |
| 36 | New Mexico | 542 | 0.8% |
| 37 | Nevada | 523 | 0.7% |
| 38 | Nebraska | 485 | 0.7% |
| 39 | Vermont | 399 | 0.6% |
| 40 | New Hampshire | 365 | 0.5% |
| 41 | Alaska | 363 | 0.5% |
| 42 | Maine | 342 | 0.5% |
| 43 | Rhode Island | 335 | 0.5% |
| 44 | Idaho | 256 | 0.4% |
| 45 | Montana | 244 | 0.3% |
| 46 | South Dakota | 208 | 0.3% |
| 47 | Wyoming | 203 | 0.3% |
| 48 | North Dakota | 132 | 0.2% |
| 49 | Hawaii* | 0 | 0.0% |
| NA | Mississippi | NA | NA |
| | District of Columbia* | 0 | 0.0% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 286 (Kathleen O. Morgan et al. eds., 2011).

*Do not have state police agencies.

**2009 Number of State and Local Police Officers
719,358 Total Officers Nationally**

| <i>Rank</i> | <i>State</i> | <i>Officers</i> | <i>% of USA</i> |
|-------------|----------------------|-----------------|-----------------|
| 1 | California | 77,224 | 10.7% |
| 2 | New York | 75,244 | 10.5% |
| 3 | Texas | 51,896 | 7.2% |
| 4 | Florida | 44,153 | 6.1% |
| 5 | Illinois | 37,087 | 5.2% |
| 6 | Pennsylvania | 28,025 | 3.9% |
| 7 | New Jersey | 27,142 | 3.8% |
| 8 | Ohio | 24,507 | 3.4% |
| 9 | North Carolina | 22,237 | 3.1% |
| 10 | Georgia | 21,314 | 3.0% |
| 11 | Massachusetts | 19,922 | 2.8% |
| 12 | Michigan | 18,227 | 2.5% |
| 13 | Virginia | 17,254 | 2.4% |
| 14 | Tennessee | 14,310 | 2.0% |
| 15 | Missouri | 13,732 | 1.9% |
| 16 | Maryland | 13,687 | 1.9% |
| 17 | Indiana | 13,273 | 1.8% |
| 18 | Louisiana | 13,099 | 1.8% |
| 19 | Arizona | 13,025 | 1.8% |
| 20 | Wisconsin | 12,787 | 1.8% |
| 21 | Colorado | 11,606 | 1.6% |
| 22 | South Carolina | 11,416 | 1.6% |
| 23 | Washington | 11,325 | 1.6% |
| 24 | Alabama | 10,783 | 1.5% |
| 25 | Minnesota | 9,288 | 1.3% |
| 26 | Connecticut | 8,081 | 1.1% |
| 27 | Kentucky | 7,953 | 1.1% |
| 28 | Oklahoma | 7,795 | 1.1% |
| 29 | Mississippi | 7,629 | 1.1% |
| 30 | Kansas | 6,703 | 0.9% |
| 31 | Oregon | 6,361 | 0.9% |
| 32 | Arkansas | 6,336 | 0.9% |
| 33 | Iowa | 5,580 | 0.8% |
| 34 | Nevada | 5,285 | 0.7% |
| 35 | New Mexico | 4,528 | 0.6% |
| 36 | Utah | 4,479 | 0.6% |
| 37 | Nebraska | 3,871 | 0.5% |
| 38 | Idaho | 3,151 | 0.4% |
| 39 | West Virginia | 3,090 | 0.4% |
| 40 | Hawaii | 3,065 | 0.4% |
| 41 | New Hampshire | 3,009 | 0.4% |
| 42 | Rhode Island | 3,004 | 0.4% |
| 43 | Maine | 2,297 | 0.3% |
| 44 | Delaware | 2,017 | 0.3% |
| 45 | Montana | 1,799 | 0.3% |
| 46 | South Dakota | 1,740 | 0.2% |
| 47 | Wyoming | 1,532 | 0.2% |
| 48 | North Dakota | 1,207 | 0.2% |
| 49 | Alaska | 1,187 | 0.2% |
| 50 | Vermont | 1,031 | 0.1% |
| | District of Columbia | 4,065 | 0.6% |

Source: Gov'ts Div., U.S. Bureau of the Census, Government Employment and Payroll, *in* Crime State Rankings 2011: Crime Across America 294 (Kathleen O. Morgan et al. eds., 2011).

2009 State and Local Police Officers per 10,000 Population

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | New York | 38.5 |
| 2 | New Jersey | 31.2 |
| 3 | Massachusetts | 30.2 |
| 4 | Louisiana | 29.2 |
| 5 | Illinois | 28.7 |
| 6 | Rhode Island | 28.5 |
| 7 | Wyoming | 28.1 |
| 8 | Mississippi | 25.8 |
| 9 | South Carolina | 25.0 |
| 10 | Maryland | 24.0 |
| 11 | Florida | 23.8 |
| 11 | Kansas | 23.8 |
| 13 | Hawaii | 23.7 |
| 13 | North Carolina | 23.7 |
| 15 | Colorado | 23.1 |
| 16 | Connecticut | 23.0 |
| 17 | Alabama | 22.9 |
| 17 | Missouri | 22.9 |
| 19 | Delaware | 22.8 |
| 20 | New Hampshire | 22.7 |
| 20 | Tennessee | 22.7 |
| 22 | Wisconsin | 22.6 |
| 23 | New Mexico | 22.5 |
| 24 | Pennsylvania | 22.2 |
| 25 | Arkansas | 21.9 |
| 25 | Virginia | 21.9 |
| 27 | Georgia | 21.7 |
| 28 | Nebraska | 21.5 |
| 29 | South Dakota | 21.4 |
| 30 | Ohio | 21.2 |
| 31 | Oklahoma | 21.1 |
| 32 | California | 20.9 |
| 32 | Texas | 20.9 |
| 34 | Indiana | 20.7 |
| 35 | Idaho | 20.4 |
| 36 | Nevada | 20.0 |
| 37 | Arizona | 19.7 |
| 38 | North Dakota | 18.7 |
| 39 | Iowa | 18.6 |
| 40 | Montana | 18.5 |
| 41 | Kentucky | 18.4 |
| 42 | Michigan | 18.3 |
| 43 | Minnesota | 17.6 |
| 44 | Maine | 17.4 |
| 45 | Alaska | 17.0 |
| 45 | Washington | 17.0 |
| 45 | West Virginia | 17.0 |
| 48 | Oregon | 16.6 |
| 48 | Vermont | 16.6 |
| 50 | Utah | 16.1 |
| | District of Columbia | 67.8 |

Source: Gov'ts Div., U.S. Bureau of the Census, Government Employment and Payroll, *in* Crime State Rankings 2011: Crime Across America 295 (Kathleen O. Morgan et al. eds., 2011).

2009 City and County Law Enforcement Agencies per 1,000 Square Miles

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | New Jersey | 62.2 |
| 2 | Rhode Island | 31.1 |
| 3 | Massachusetts | 30.7 |
| 4 | Delaware | 21.7 |
| 5 | Pennsylvania | 20.7 |
| 6 | Connecticut | 18.8 |
| 7 | New Hampshire | 15.9 |
| 8 | West Virginia | 14.3 |
| 9 | Ohio | 13.6 |
| 10 | Illinois | 12.7 |
| 11 | Tennessee | 10.8 |
| 12 | Maryland | 10.6 |
| 13 | Kentucky | 9.8 |
| 14 | North Carolina | 9.3 |
| 15 | South Carolina | 8.4 |
| 16 | Missouri | 8.0 |
| 16 | New York | 8.0 |
| 18 | Georgia | 7.5 |
| 19 | Alabama | 6.7 |
| 20 | Indiana | 6.6 |
| 21 | Michigan | 6.5 |
| 21 | Virginia | 6.5 |
| 23 | Wisconsin | 5.9 |
| 24 | Florida | 5.6 |
| 25 | Vermont | 5.4 |
| 26 | Arkansas | 5.3 |
| 27 | Oklahoma | 4.5 |
| 28 | Iowa | 4.2 |
| 28 | Kansas | 4.2 |
| 30 | Mississippi | 4.0 |
| 31 | Maine | 3.8 |
| 31 | Texas | 3.8 |
| 33 | Minnesota | 3.7 |
| 34 | Washington | 3.4 |
| 35 | Louisiana | 3.0 |
| 36 | California | 2.8 |
| 37 | Colorado | 2.2 |
| 38 | Nebraska | 2.1 |
| 38 | Oregon | 2.1 |
| 40 | South Dakota | 1.9 |
| 41 | Utah | 1.6 |
| 42 | North Dakota | 1.5 |
| 43 | Idaho | 1.3 |
| 44 | Arizona | 0.9 |
| 44 | New Mexico | 0.9 |
| 46 | Montana | 0.7 |
| 46 | Wyoming | 0.7 |
| 48 | Hawaii | 0.4 |
| 48 | Nevada | 0.4 |
| 50 | Alaska | 0.1 |
| | District of Columbia | 29.4 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 298 (Kathleen O. Morgan et al. eds., 2011).

**2009 Law Enforcement Officers Feloniously Killed
46 National Total**

| <i>Rank</i> | <i>State</i> | <i>Officers</i> | <i>% of USA</i> |
|-------------|----------------------|-----------------|-----------------|
| 1 | Pennsylvania | 6 | 13.0% |
| 1 | Texas | 6 | 13.0% |
| 1 | Washington | 6 | 13.0% |
| 4 | California | 5 | 10.9% |
| 5 | Alabama | 4 | 8.7% |
| 6 | Florida | 3 | 6.5% |
| 6 | North Carolina | 3 | 6.5% |
| 8 | Illinois | 2 | 4.3% |
| 8 | Oklahoma | 2 | 4.3% |
| 10 | Arkansas | 1 | 2.2% |
| 10 | Colorado | 1 | 2.2% |
| 10 | Delaware | 1 | 2.2% |
| 10 | Kansas | 1 | 2.2% |
| 10 | Minnesota | 1 | 2.2% |
| 10 | New Jersey | 1 | 2.2% |
| 10 | New Mexico | 1 | 2.2% |
| 10 | South Dakota | 1 | 2.2% |
| 10 | Tennessee | 1 | 2.2% |
| 19 | Alaska | 0 | 0.0% |
| 19 | Arizona | 0 | 0.0% |
| 19 | Connecticut | 0 | 0.0% |
| 19 | Georgia | 0 | 0.0% |
| 19 | Hawaii | 0 | 0.0% |
| 19 | Idaho | 0 | 0.0% |
| 19 | Indiana | 0 | 0.0% |
| 19 | Iowa | 0 | 0.0% |
| 19 | Kentucky | 0 | 0.0% |
| 19 | Louisiana | 0 | 0.0% |
| 19 | Maine | 0 | 0.0% |
| 19 | Maryland | 0 | 0.0% |
| 19 | Massachusetts | 0 | 0.0% |
| 19 | Michigan | 0 | 0.0% |
| 19 | Mississippi | 0 | 0.0% |
| 19 | Missouri | 0 | 0.0% |
| 19 | Montana | 0 | 0.0% |
| 19 | Nebraska | 0 | 0.0% |
| 19 | Nevada | 0 | 0.0% |
| 19 | New Hampshire | 0 | 0.0% |
| 19 | New York | 0 | 0.0% |
| 19 | North Dakota | 0 | 0.0% |
| 19 | Ohio | 0 | 0.0% |
| 19 | Oregon | 0 | 0.0% |
| 19 | Rhode Island | 0 | 0.0% |
| 19 | South Carolina | 0 | 0.0% |
| 19 | Utah | 0 | 0.0% |
| 19 | Vermont | 0 | 0.0% |
| 19 | Virginia | 0 | 0.0% |
| 19 | West Virginia | 0 | 0.0% |
| 19 | Wisconsin | 0 | 0.0% |
| 19 | Wyoming | 0 | 0.0% |
| | District of Columbia | 0 | 0.0% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Law Enforcement Officers Killed and Assaulted 2009, in Crime State Rankings 2011: Crime Across America 299 (Kathleen O. Morgan et al. eds., 2011).

**2000 to 2009 Law Enforcement Officers Feloniously Killed
513 National Total**

| <i>Rank</i> | <i>State</i> | <i>Officers</i> | <i>% of USA</i> |
|-------------|----------------------|-----------------|-----------------|
| 1 | Texas | 53 | 10.3% |
| 2 | California | 47 | 9.2% |
| 3 | Florida | 25 | 4.9% |
| 3 | Louisiana | 25 | 4.9% |
| 5 | Pennsylvania | 21 | 4.1% |
| 6 | Georgia | 20 | 3.9% |
| 6 | North Carolina | 20 | 3.9% |
| 8 | Virginia | 19 | 3.7% |
| 9 | Alabama | 18 | 3.5% |
| 9 | Illinois | 18 | 3.5% |
| 9 | South Carolina | 18 | 3.5% |
| 12 | Michigan | 17 | 3.3% |
| 13 | Tennessee | 16 | 3.1% |
| 14 | New York | 15 | 2.9% |
| 14 | Ohio | 15 | 2.9% |
| 14 | Washington | 15 | 2.9% |
| 17 | Maryland | 14 | 2.7% |
| 18 | Arizona | 13 | 2.5% |
| 18 | Indiana | 13 | 2.5% |
| 18 | Missouri | 13 | 2.5% |
| 21 | Mississippi | 11 | 2.1% |
| 22 | Kentucky | 8 | 1.6% |
| 23 | New Mexico | 7 | 1.4% |
| 23 | Wisconsin | 7 | 1.4% |
| 25 | Kansas | 6 | 1.2% |
| 25 | New Jersey | 6 | 1.2% |
| 25 | Oklahoma | 6 | 1.2% |
| 28 | Arkansas | 5 | 1.0% |
| 28 | Colorado | 5 | 1.0% |
| 28 | Minnesota | 5 | 1.0% |
| 31 | Utah | 4 | 0.8% |
| 32 | Alaska | 3 | 0.6% |
| 32 | Idaho | 3 | 0.6% |
| 32 | Oregon | 3 | 0.6% |
| 35 | Hawaii | 2 | 0.4% |
| 35 | Massachusetts | 2 | 0.4% |
| 35 | Nevada | 2 | 0.4% |
| 35 | New Hampshire | 2 | 0.4% |
| 35 | West Virginia | 2 | 0.4% |
| 40 | Connecticut | 1 | 0.2% |
| 40 | Delaware | 1 | 0.2% |
| 40 | Montana | 1 | 0.2% |
| 40 | Nebraska | 1 | 0.2% |
| 40 | Rhode Island | 1 | 0.2% |
| 40 | South Dakota | 1 | 0.2% |
| 46 | Iowa | 0 | 0.0% |
| 46 | Maine | 0 | 0.0% |
| 46 | North Dakota | 0 | 0.0% |
| 46 | Vermont | 0 | 0.0% |
| 46 | Wyoming | 0 | 0.0% |
| | District of Columbia | 3 | 0.6% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Law Enforcement Officers Killed and Assaulted 2009, in Crime State Rankings 2011: Crime Across America 300 (Kathleen O. Morgan et al. eds., 2011).

**2009 Law Enforcement Officers Accidentally Killed
47 National Total**

| <i>Rank</i> | <i>State</i> | <i>Officers</i> | <i>% of USA</i> |
|-------------|----------------------|-----------------|-----------------|
| 1 | California | 3 | 6.4% |
| 1 | New York | 3 | 6.4% |
| 1 | North Carolina | 3 | 6.4% |
| 1 | Virginia | 3 | 6.4% |
| 5 | Georgia | 2 | 4.3% |
| 5 | Idaho | 2 | 4.3% |
| 5 | Indiana | 2 | 4.3% |
| 5 | Massachusetts | 2 | 4.3% |
| 5 | Mississippi | 2 | 4.3% |
| 5 | Missouri | 2 | 4.3% |
| 5 | Nevada | 2 | 4.3% |
| 5 | New Mexico | 2 | 4.3% |
| 5 | South Carolina | 2 | 4.3% |
| 5 | Texas | 2 | 4.3% |
| 15 | Alabama | 1 | 2.1% |
| 15 | Arizona | 1 | 2.1% |
| 15 | Arkansas | 1 | 2.1% |
| 15 | Florida | 1 | 2.1% |
| 15 | Louisiana | 1 | 2.1% |
| 15 | Michigan | 1 | 2.1% |
| 15 | Montana | 1 | 2.1% |
| 15 | Nebraska | 1 | 2.1% |
| 15 | Ohio | 1 | 2.1% |
| 15 | Oklahoma | 1 | 2.1% |
| 15 | Pennsylvania | 1 | 2.1% |
| 15 | Tennessee | 1 | 2.1% |
| 15 | Washington | 1 | 2.1% |
| 15 | West Virginia | 1 | 2.1% |
| 15 | Wisconsin | 1 | 2.1% |
| 30 | Alaska | 0 | 0.0% |
| 30 | Colorado | 0 | 0.0% |
| 30 | Connecticut | 0 | 0.0% |
| 30 | Delaware | 0 | 0.0% |
| 30 | Hawaii | 0 | 0.0% |
| 30 | Illinois | 0 | 0.0% |
| 30 | Iowa | 0 | 0.0% |
| 30 | Kansas | 0 | 0.0% |
| 30 | Kentucky | 0 | 0.0% |
| 30 | Maine | 0 | 0.0% |
| 30 | Maryland | 0 | 0.0% |
| 30 | Minnesota | 0 | 0.0% |
| 30 | New Hampshire | 0 | 0.0% |
| 30 | New Jersey | 0 | 0.0% |
| 30 | North Dakota | 0 | 0.0% |
| 30 | Oregon | 0 | 0.0% |
| 30 | Rhode Island | 0 | 0.0% |
| 30 | South Dakota | 0 | 0.0% |
| 30 | Utah | 0 | 0.0% |
| 30 | Vermont | 0 | 0.0% |
| 30 | Wyoming | 0 | 0.0% |
| | District of Columbia | 0 | 0.0% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Law Enforcement Officers Killed and Assaulted 2009, in Crime State Rankings 2011: Crime Across America 301 (Kathleen O. Morgan et al. eds., 2011).

**2000 to 2009 Law Enforcement Officers Accidentally Killed
710 National Total**

| <i>Rank</i> | <i>State</i> | <i>Officers</i> | <i>% of USA</i> |
|-------------|----------------------|-----------------|-----------------|
| 1 | Texas | 80 | 11.3% |
| 2 | California | 77 | 10.8% |
| 3 | Florida | 41 | 5.8% |
| 4 | North Carolina | 30 | 4.2% |
| 5 | Georgia | 28 | 3.9% |
| 6 | Tennessee | 27 | 3.8% |
| 7 | New York | 25 | 3.5% |
| 8 | Illinois | 23 | 3.2% |
| 9 | Missouri | 22 | 3.1% |
| 10 | Arizona | 21 | 3.0% |
| 11 | Louisiana | 20 | 2.8% |
| 12 | Indiana | 19 | 2.7% |
| 12 | Pennsylvania | 19 | 2.7% |
| 14 | Alabama | 17 | 2.4% |
| 14 | Maryland | 17 | 2.4% |
| 14 | South Carolina | 17 | 2.4% |
| 14 | Virginia | 17 | 2.4% |
| 18 | Michigan | 16 | 2.3% |
| 18 | Ohio | 16 | 2.3% |
| 20 | New Jersey | 15 | 2.1% |
| 21 | Mississippi | 14 | 2.0% |
| 21 | New Mexico | 14 | 2.0% |
| 23 | Oklahoma | 12 | 1.7% |
| 24 | Arkansas | 11 | 1.5% |
| 24 | Massachusetts | 11 | 1.5% |
| 26 | Washington | 9 | 1.3% |
| 27 | Colorado | 8 | 1.1% |
| 27 | Wisconsin | 8 | 1.1% |
| 29 | Montana | 7 | 1.0% |
| 29 | Nevada | 7 | 1.0% |
| 29 | Oregon | 7 | 1.0% |
| 29 | Utah | 7 | 1.0% |
| 33 | Kentucky | 6 | 0.8% |
| 34 | Hawaii | 5 | 0.7% |
| 34 | Kansas | 5 | 0.7% |
| 34 | Minnesota | 5 | 0.7% |
| 37 | Connecticut | 4 | 0.6% |
| 37 | West Virginia | 4 | 0.6% |
| 39 | Idaho | 3 | 0.4% |
| 40 | Alaska | 2 | 0.3% |
| 40 | Delaware | 2 | 0.3% |
| 40 | Iowa | 2 | 0.3% |
| 40 | Rhode Island | 2 | 0.3% |
| 40 | South Dakota | 2 | 0.3% |
| 40 | Vermont | 2 | 0.3% |
| 46 | Nebraska | 1 | 0.1% |
| 46 | Wyoming | 1 | 0.1% |
| 48 | Maine | 0 | 0.0% |
| 48 | New Hampshire | 0 | 0.0% |
| 48 | North Dakota | 0 | 0.0% |
| | District of Columbia | 2 | 0.3% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Law Enforcement Officers Killed and Assaulted 2009, in Crime State Rankings 2011: Crime Across America 302 (Kathleen O. Morgan et al. eds., 2011).

2009 Number of Detectives and Criminal Investigators
110,380 National Total

| <i>Rank</i> | <i>State</i> | <i>Employees</i> | <i>% of USA</i> |
|-------------|----------------------|------------------|-----------------|
| 1 | Texas | 14,350 | 13.0% |
| 2 | California | 12,800 | 11.6% |
| 3 | New York | 9,200 | 8.3% |
| 4 | Florida | 7,440 | 6.7% |
| 5 | Arizona | 5,370 | 4.9% |
| 6 | Georgia | 4,750 | 4.3% |
| 7 | North Carolina | 3,660 | 3.3% |
| 8 | Pennsylvania | 3,520 | 3.2% |
| 9 | New Jersey | 3,310 | 3.0% |
| 10 | Virginia | 3,170 | 2.9% |
| 11 | Illinois | 2,840 | 2.6% |
| 12 | Ohio | 2,700 | 2.4% |
| 13 | Louisiana | 2,140 | 1.9% |
| 14 | New Mexico | 1,860 | 1.7% |
| 15 | Colorado | 1,790 | 1.6% |
| 15 | Michigan | 1,790 | 1.6% |
| 17 | Massachusetts | 1,780 | 1.6% |
| 18 | Oklahoma | 1,700 | 1.5% |
| 19 | Missouri | 1,680 | 1.5% |
| 20 | Washington | 1,670 | 1.5% |
| 21 | Tennessee | 1,550 | 1.4% |
| 22 | Wisconsin | 1,520 | 1.4% |
| 23 | Maryland | 1,440 | 1.3% |
| 24 | Minnesota | 1,260 | 1.1% |
| 25 | Indiana | 1,230 | 1.1% |
| 26 | Alabama | 1,140 | 1.0% |
| 27 | Connecticut | 1,080 | 1.0% |
| 28 | Mississippi | 1,060 | 1.0% |
| 29 | South Carolina | 1,040 | 0.9% |
| 30 | Kansas | 930 | 0.8% |
| 31 | Oregon | 640 | 0.6% |
| 32 | Nevada | 620 | 0.6% |
| 33 | Kentucky | 580 | 0.5% |
| 34 | Maine | 570 | 0.5% |
| 35 | Hawaii | 500 | 0.5% |
| 36 | Arkansas | 470 | 0.4% |
| 37 | Idaho | 420 | 0.4% |
| 38 | Montana | 410 | 0.4% |
| 39 | Utah | 390 | 0.4% |
| 40 | West Virginia | 380 | 0.3% |
| 41 | Rhode Island | 370 | 0.3% |
| 42 | New Hampshire | 350 | 0.3% |
| 43 | Nebraska | 310 | 0.3% |
| 44 | Vermont | 270 | 0.2% |
| 45 | North Dakota | 260 | 0.2% |
| 46 | Wyoming | 220 | 0.2% |
| 47 | South Dakota | 210 | 0.2% |
| 48 | Delaware | 130 | 0.1% |
| 49 | Alaska | 110 | 0.1% |
| 50 | Iowa | NA | NA |
| | District of Columbia | NA | NA |

Source: Bureau of Labor Statistics, U.S. Dep't of Labor, Occupational Employment Statistics, *in* Crime State Rankings 2011: Crime Across America 306 (Kathleen O. Morgan et al. eds., 2011).

**2009 Wiretaps Authorized
1,713 Total Wiretaps Nationally**

| <i>Rank</i> | <i>State</i> | <i>Wiretaps</i> | <i>% of USA</i> |
|-------------|----------------------|-----------------|-----------------|
| 1 | California | 586 | 34.2% |
| 2 | New York | 424 | 24.8% |
| 3 | New Jersey | 206 | 12.0% |
| 4 | Colorado | 115 | 6.7% |
| 5 | Florida | 78 | 4.6% |
| 6 | Nevada | 55 | 3.2% |
| 6 | Tennessee | 55 | 3.2% |
| 8 | Pennsylvania | 47 | 2.7% |
| 9 | Georgia | 34 | 2.0% |
| 10 | Arizona | 30 | 1.8% |
| 11 | Maryland | 21 | 1.2% |
| 12 | Mississippi | 12 | 0.7% |
| 13 | Oklahoma | 10 | 0.6% |
| 13 | Wisconsin | 10 | 0.6% |
| 15 | Massachusetts | 8 | 0.5% |
| 16 | North Carolina | 5 | 0.3% |
| 17 | Indiana | 4 | 0.2% |
| 18 | Connecticut | 3 | 0.2% |
| 18 | Minnesota | 3 | 0.2% |
| 18 | Wyoming | 3 | 0.2% |
| 21 | Kansas | 2 | 0.1% |
| 22 | Illinois | 1 | 0.1% |
| 22 | Ohio | 1 | 0.1% |
| 24 | Alaska | 0 | 0.0% |
| 24 | Delaware | 0 | 0.0% |
| 24 | Hawaii | 0 | 0.0% |
| 24 | Idaho | 0 | 0.0% |
| 24 | Iowa | 0 | 0.0% |
| 24 | Louisiana | 0 | 0.0% |
| 24 | Maine | 0 | 0.0% |
| 24 | Missouri | 0 | 0.0% |
| 24 | Nebraska | 0 | 0.0% |
| 24 | New Hampshire | 0 | 0.0% |
| 24 | New Mexico | 0 | 0.0% |
| 24 | North Dakota | 0 | 0.0% |
| 24 | Oregon | 0 | 0.0% |
| 24 | Rhode Island | 0 | 0.0% |
| 24 | South Carolina | 0 | 0.0% |
| 24 | South Dakota | 0 | 0.0% |
| 24 | Texas | 0 | 0.0% |
| 24 | Utah | 0 | 0.0% |
| 24 | Virginia | 0 | 0.0% |
| 24 | Washington | 0 | 0.0% |
| 24 | West Virginia | 0 | 0.0% |
| NA | Alabama** | NA | NA |
| NA | Arkansas** | NA | NA |
| NA | Kentucky** | NA | NA |
| NA | Michigan** | NA | NA |
| NA | Montana** | NA | NA |
| NA | Vermont** | NA | NA |
| | District of Columbia | 0 | 0.0% |

Source: Administrative Office of the United States Courts, 2009 Wiretap Report, *in Crime State Rankings 2011: Crime Across America* 314 (Kathleen O. Morgan et al. eds., 2011).

**No state statute authorizing wiretaps.

2009 Violent Crimes
1,318,398 National Total

| <i>Rank</i> | <i>State</i> | <i>Crimes</i> | <i>% of USA</i> |
|-------------|----------------------|---------------|-----------------|
| 1 | California | 174,459 | 13.2% |
| 2 | Texas | 121,668 | 9.2% |
| 3 | Florida | 113,541 | 8.6% |
| 4 | New York | 75,176 | 5.7% |
| 5 | Illinois | 64,185 | 4.9% |
| 6 | Michigan | 49,547 | 3.8% |
| 7 | Pennsylvania | 47,965 | 3.6% |
| 8 | Tennessee | 42,041 | 3.2% |
| 9 | Georgia | 41,880 | 3.2% |
| 10 | Ohio | 38,332 | 2.9% |
| 11 | North Carolina | 37,929 | 2.9% |
| 12 | Maryland | 33,623 | 2.6% |
| 13 | South Carolina | 30,596 | 2.3% |
| 14 | Massachusetts | 30,136 | 2.3% |
| 15 | Missouri | 29,444 | 2.2% |
| 16 | Louisiana | 27,849 | 2.1% |
| 17 | New Jersey | 27,121 | 2.1% |
| 18 | Arizona | 26,929 | 2.0% |
| 19 | Washington | 22,056 | 1.7% |
| 20 | Indiana | 21,404 | 1.6% |
| 21 | Alabama | 21,179 | 1.6% |
| 22 | Nevada | 18,559 | 1.4% |
| 23 | Oklahoma | 18,474 | 1.4% |
| 24 | Virginia | 17,879 | 1.4% |
| 25 | Colorado | 16,976 | 1.3% |
| 26 | Arkansas | 14,959 | 1.1% |
| 27 | Wisconsin | 14,533 | 1.1% |
| 28 | Minnesota | 12,842 | 1.0% |
| 29 | New Mexico | 12,440 | 0.9% |
| 30 | Kansas | 11,278 | 0.9% |
| 31 | Kentucky | 11,159 | 0.8% |
| 32 | Connecticut | 10,508 | 0.8% |
| 33 | Oregon | 9,744 | 0.7% |
| 34 | Iowa | 8,397 | 0.6% |
| 35 | Mississippi | 8,304 | 0.6% |
| 36 | Utah | 5,924 | 0.4% |
| 37 | Delaware | 5,635 | 0.4% |
| 38 | West Virginia | 5,396 | 0.4% |
| 39 | Nebraska | 5,059 | 0.4% |
| 40 | Alaska | 4,421 | 0.3% |
| 41 | Hawaii | 3,559 | 0.3% |
| 42 | Idaho | 3,530 | 0.3% |
| 43 | Rhode Island | 2,660 | 0.2% |
| 44 | Montana | 2,473 | 0.2% |
| 45 | New Hampshire | 2,114 | 0.2% |
| 46 | Maine | 1,579 | 0.1% |
| 47 | South Dakota | 1,508 | 0.1% |
| 48 | North Dakota | 1,298 | 0.1% |
| 49 | Wyoming | 1,242 | 0.1% |
| 50 | Vermont | 817 | 0.1% |
| | District of Columbia | 8,071 | 0.6% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 325 (Kathleen O. Morgan et al. eds., 2011).

2009 Average Time Between Violent Crimes

| <i>Rank</i> | <i>State</i> | <i>Hours.Minutes</i> |
|-------------|----------------------|----------------------|
| 1 | Vermont | 10.43 |
| 2 | Wyoming | 7.03 |
| 3 | North Dakota | 6.45 |
| 4 | South Dakota | 5.49 |
| 5 | Maine | 5.33 |
| 6 | New Hampshire | 4.08 |
| 7 | Montana | 3.32 |
| 8 | Rhode Island | 3.17 |
| 9 | Idaho | 2.29 |
| 10 | Hawaii | 2.28 |
| 11 | Alaska | 1.59 |
| 12 | Nebraska | 1.44 |
| 13 | West Virginia | 1.37 |
| 14 | Delaware | 1.33 |
| 15 | Utah | 1.29 |
| 16 | Mississippi | 1.03 |
| 17 | Iowa | 1.02 |
| 18 | Oregon | 0.54 |
| 19 | Connecticut | 0.50 |
| 20 | Kansas | 0.47 |
| 20 | Kentucky | 0.47 |
| 22 | New Mexico | 0.42 |
| 23 | Minnesota | 0.41 |
| 24 | Wisconsin | 0.36 |
| 25 | Arkansas | 0.35 |
| 26 | Colorado | 0.31 |
| 27 | Virginia | 0.29 |
| 28 | Nevada | 0.28 |
| 28 | Oklahoma | 0.28 |
| 30 | Alabama | 0.25 |
| 30 | Indiana | 0.25 |
| 32 | Washington | 0.24 |
| 33 | Arizona | 0.20 |
| 34 | Louisiana | 0.19 |
| 34 | New Jersey | 0.19 |
| 36 | Missouri | 0.18 |
| 37 | Massachusetts | 0.17 |
| 37 | South Carolina | 0.17 |
| 39 | Maryland | 0.16 |
| 40 | North Carolina | 0.14 |
| 40 | Ohio | 0.14 |
| 42 | Georgia | 0.13 |
| 42 | Tennessee | 0.13 |
| 44 | Michigan | 0.11 |
| 44 | Pennsylvania | 0.11 |
| 46 | Illinois | 0.08 |
| 47 | New York | 0.07 |
| 48 | Florida | 0.05 |
| 49 | Texas | 0.04 |
| 50 | California | 0.03 |
| | District of Columbia | 1.05 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 326 (Kathleen O. Morgan et al. eds., 2011).

2008 to 2009 Percent Change in Number of Violent Crimes

| <i>Rank</i> | <i>State</i> | <i>Percent Change</i> |
|-------------|----------------------|-----------------------|
| 1 | West Virginia | 7.3 |
| 2 | North Dakota | 6.7 |
| 3 | Arkansas | 3.4 |
| 4 | Washington | 1.5 |
| 5 | Hawaii | 1.4 |
| 6 | Massachusetts | 0.8 |
| 7 | Maine | 0.4 |
| 8 | Alabama | 0.3 |
| 9 | Rhode Island | 0.2 |
| 10 | Indiana | -0.5 |
| 11 | New Hampshire | -0.6 |
| 12 | Colorado | -0.9 |
| 12 | Missouri | -0.9 |
| 14 | Oregon | -1.0 |
| 15 | Alaska | -1.3 |
| 16 | Texas | -1.6 |
| 17 | Nevada | -1.9 |
| 18 | Connecticut | -2.1 |
| 19 | Kansas | -2.7 |
| 20 | Iowa | -2.9 |
| 21 | New York | -3.1 |
| 22 | Utah | -3.4 |
| 23 | Michigan | -3.6 |
| 24 | Idaho | -4.0 |
| 24 | Oklahoma | -4.0 |
| 26 | New Jersey | -4.3 |
| 26 | Vermont | -4.3 |
| 28 | New Mexico | -4.4 |
| 29 | Maryland | -5.0 |
| 39 | Ohio | -5.0 |
| 31 | Wyoming | -5.3 |
| 32 | Illinois | -5.4 |
| 33 | California | -5.8 |
| 33 | Louisiana | -5.8 |
| 35 | Pennsylvania | -6.0 |
| 36 | Wisconsin | -6.2 |
| 37 | Tennessee | -6.5 |
| 38 | South Carolina | -6.6 |
| 39 | Minnesota | -6.7 |
| 40 | Mississippi | -7.2 |
| 41 | Nebraska | -8.6 |
| 42 | Delaware | -8.9 |
| 43 | Florida | -10.1 |
| 44 | Virginia | -10.8 |
| 45 | Georgia | -11.8 |
| 46 | North Carolina | -12.0 |
| 47 | Kentucky | -12.9 |
| 48 | Arizona | -13.9 |
| 49 | Montana | -15.3 |
| 50 | South Dakota | -32.1 |
| | District of Columbia | -5.1 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 328 (Kathleen O. Morgan et al. eds., 2011).

**2009 Violent Crimes with Firearms
305,254 National Total**

| <i>Rank</i> | <i>State</i> | <i>Crimes</i> | <i>% of USA</i> |
|-------------|----------------------|---------------|-----------------|
| 1 | California | 38,477 | 12.6% |
| 2 | Texas | 37,414 | 12.3% |
| 3 | Tennessee | 15,141 | 5.0% |
| 4 | Michigan | 14,836 | 4.9% |
| 5 | Georgia | 13,146 | 4.3% |
| 6 | North Carolina | 12,575 | 4.1% |
| 7 | Pennsylvania | 12,562 | 4.1% |
| 8 | Ohio | 10,784 | 3.5% |
| 9 | Missouri | 9,924 | 3.3% |
| 10 | South Carolina | 8,940 | 2.9% |
| 11 | Louisiana | 7,927 | 2.6% |
| 12 | Arizona | 7,921 | 2.6% |
| 13 | Maryland | 5,953 | 2.0% |
| 14 | New Jersey | 5,787 | 1.9% |
| 15 | New York | 5,554 | 1.8% |
| 16 | Indiana | 5,366 | 1.8% |
| 17 | Virginia | 5,155 | 1.7% |
| 18 | Wisconsin | 4,560 | 1.5% |
| 19 | Oklahoma | 4,154 | 1.4% |
| 20 | Nevada | 4,084 | 1.3% |
| 21 | Arkansas | 3,833 | 1.3% |
| 22 | Massachusetts | 3,789 | 1.2% |
| 23 | Washington | 3,533 | 1.2% |
| 24 | Colorado | 3,343 | 1.1% |
| 25 | Alabama | 3,222 | 1.1% |
| 26 | Kansas | 2,668 | 0.9% |
| 27 | Kentucky | 2,652 | 0.9% |
| 28 | New Mexico | 2,430 | 0.8% |
| 29 | Minnesota | 2,333 | 0.8% |
| 30 | Connecticut | 2,287 | 0.7% |
| 31 | Mississippi | 2,256 | 0.7% |
| 32 | Delaware | 1,629 | 0.5% |
| 33 | Oregon | 1,208 | 0.4% |
| 34 | Nebraska | 1,101 | 0.4% |
| 35 | West Virginia | 988 | 0.3% |
| 36 | Utah | 975 | 0.3% |
| 37 | Iowa | 841 | 0.3% |
| 38 | Alaska | 722 | 0.2% |
| 39 | Rhode Island | 567 | 0.2% |
| 40 | Idaho | 507 | 0.2% |
| 41 | Montana | 368 | 0.1% |
| 42 | New Hampshire | 280 | 0.1% |
| 43 | Hawaii | 274 | 0.1% |
| 44 | Wyoming | 138 | 0.0% |
| 45 | South Dakota | 137 | 0.0% |
| 46 | Maine | 120 | 0.0% |
| 47 | Vermont | 98 | 0.0% |
| 48 | North Dakota | 39 | 0.0% |
| NA | Florida | NA | NA |
| NA | Illinois | NA | NA |
| | District of Columbia | 2,701 | 0.9% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 331 (Kathleen O. Morgan et al. eds., 2011).

2009 Violent Crimes with Firearms per 100,000 Population

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Tennessee | 246.7 |
| 2 | South Carolina | 210.0 |
| 3 | Louisiana | 206.2 |
| 4 | Delaware | 184.2 |
| 5 | Missouri | 177.5 |
| 6 | Georgia | 166.3 |
| 7 | Kansas | 158.4 |
| 8 | Nevada | 157.5 |
| 9 | Michigan | 152.4 |
| 10 | Texas | 151.6 |
| 11 | North Carolina | 150.7 |
| 12 | Arkansas | 145.5 |
| 13 | New Mexico | 142.7 |
| 14 | Arizona | 122.3 |
| 15 | Mississippi | 121.1 |
| 16 | Maryland | 118.3 |
| 17 | Oklahoma | 117.6 |
| 18 | Ohio | 113.8 |
| 19 | Alabama | 112.9 |
| 20 | Pennsylvania | 107.8 |
| 21 | Alaska | 104.7 |
| 21 | California | 104.7 |
| 23 | Indiana | 100.2 |
| 24 | Wisconsin | 82.3 |
| 25 | West Virginia | 74.0 |
| 26 | Colorado | 69.3 |
| 27 | Nebraska | 68.2 |
| 28 | New Jersey | 67.3 |
| 29 | Virginia | 67.0 |
| 30 | Kentucky | 65.7 |
| 31 | Connecticut | 65.0 |
| 32 | Massachusetts | 63.5 |
| 33 | Washington | 56.9 |
| 34 | Rhode Island | 53.8 |
| 35 | New York | 51.6 |
| 36 | Minnesota | 46.1 |
| 37 | Montana | 38.1 |
| 38 | Utah | 35.5 |
| 39 | Idaho | 33.3 |
| 40 | Oregon | 32.1 |
| 41 | Iowa | 30.6 |
| 42 | Wyoming | 25.6 |
| 43 | New Hampshire | 24.1 |
| 44 | Hawaii | 23.8 |
| 45 | South Dakota | 19.4 |
| 46 | Vermont | 16.2 |
| 47 | Maine | 9.1 |
| 48 | North Dakota | 6.4 |
| NA | Florida | NA |
| NA | Illinois | NA |
| | District of Columbia | 450.4 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 332 (Kathleen O. Morgan et al. eds., 2011).

2009 Percent of Violent Crimes Involving Firearms

| <i>Rank</i> | <i>State</i> | <i>Percent</i> |
|-------------|----------------------|----------------|
| 1 | Mississippi | 42.4 |
| 2 | Kansas | 39.2 |
| 3 | Georgia | 39.1 |
| 4 | North Carolina | 38.5 |
| 5 | Tennessee | 38.4 |
| 6 | Missouri | 37.1 |
| 7 | Wisconsin | 34.6 |
| 8 | Louisiana | 34.4 |
| 9 | Alabama | 33.7 |
| 9 | Ohio | 33.7 |
| 11 | Virginia | 33.5 |
| 12 | Michigan | 33.2 |
| 13 | Texas | 33.1 |
| 14 | South Carolina | 32.6 |
| 15 | Arizona | 32.5 |
| 16 | Delaware | 30.8 |
| 17 | Arkansas | 29.8 |
| 18 | Pennsylvania | 29.6 |
| 19 | Indiana | 29.1 |
| 20 | Kentucky | 28.4 |
| 21 | Maryland | 25.8 |
| 22 | Nebraska | 25.6 |
| 23 | Oklahoma | 25.5 |
| 24 | West Virginia | 25.0 |
| 25 | New Mexico | 24.2 |
| 26 | Rhode Island | 23.9 |
| 27 | Nevada | 23.5 |
| 28 | California | 23.3 |
| 28 | Colorado | 23.3 |
| 30 | Connecticut | 23.2 |
| 31 | New Jersey | 22.3 |
| 32 | Minnesota | 21.6 |
| 33 | New York | 20.6 |
| 34 | Utah | 19.6 |
| 35 | Washington | 19.0 |
| 36 | Alaska | 18.7 |
| 37 | New Hampshire | 17.6 |
| 38 | Idaho | 17.1 |
| 38 | Montana | 17.1 |
| 40 | Oregon | 15.5 |
| 41 | Massachusetts | 14.5 |
| 41 | Vermont | 14.5 |
| 43 | South Dakota | 13.9 |
| 44 | Wyoming | 13.2 |
| 45 | Iowa | 11.7 |
| 46 | Maine | 10.0 |
| 47 | Hawaii | 9.5 |
| 48 | North Dakota | 3.7 |
| NA | Florida | NA |
| NA | Illinois | NA |
| | District of Columbia | 34.1 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 333 (Kathleen O. Morgan et al. eds., 2011).

2009 Average Time Between Murders

| <i>Rank</i> | <i>State</i> | <i>Hours.Minutes</i> |
|-------------|----------------------|----------------------|
| 1 | California | 4.26 |
| 2 | Texas | 6.36 |
| 3 | Florida | 8.37 |
| 4 | New York | 11.16 |
| 5 | Illinois | 11.20 |
| 6 | Pennsylvania | 13.15 |
| 7 | Michigan | 13.58 |
| 8 | Georgia | 15.29 |
| 9 | Louisiana | 16.32 |
| 10 | Ohio | 16.53 |
| 11 | North Carolina | 17.44 |
| 12 | Tennessee | 19.00 |
| 13 | Maryland | 20.00 |
| 14 | Missouri | 22.52 |
| 15 | Arizona | 24.45 |
| 16 | Virginia | 25.15 |
| 17 | Alabama | 27.07 |
| 18 | New Jersey | 27.28 |
| 19 | Indiana | 28.16 |
| 20 | South Carolina | 30.31 |
| 21 | Oklahoma | 38.25 |
| 22 | Mississippi | 46.07 |
| 23 | Arkansas | 48.56 |
| 23 | Washington | 48.56 |
| 25 | Kentucky | 49.13 |
| 26 | Colorado | 50.04 |
| 26 | New Mexico | 50.04 |
| 28 | Massachusetts | 50.56 |
| 29 | Nevada | 55.48 |
| 30 | Wisconsin | 60.50 |
| 31 | Kansas | 73.37 |
| 32 | Connecticut | 81.52 |
| 33 | Oregon | 103.04 |
| 34 | West Virginia | 104.17 |
| 35 | Minnesota | 118.23 |
| 36 | Delaware | 213.40 |
| 37 | Nebraska | 219.00 |
| 38 | Utah | 236.46 |
| 39 | Iowa | 257.39 |
| 40 | Rhode Island | 282.35 |
| 41 | Montana | 312.52 |
| 42 | Maine | 336.55 |
| 43 | Alaska | 398.11 |
| 43 | Hawaii | 398.11 |
| 43 | Idaho | 398.11 |
| 46 | South Dakota | 417.08 |
| 47 | Wyoming | 673.51 |
| 48 | New Hampshire | 876.00 |
| 48 | North Dakota | 876.00 |
| 50 | Vermont | 1,251.26 |
| | District of Columbia | 60.50 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 335 (Kathleen O. Morgan et al. eds., 2011).

2009 Murders per 100,000 Population

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Louisiana | 11.8 |
| 2 | New Mexico | 8.7 |
| 3 | Maryland | 7.7 |
| 4 | Tennessee | 7.3 |
| 5 | Alabama | 6.9 |
| 6 | Mississippi | 6.4 |
| 6 | Missouri | 6.4 |
| 8 | Michigan | 6.3 |
| 8 | South Carolina | 6.3 |
| 10 | Arkansas | 6.2 |
| 10 | Oklahoma | 6.2 |
| 12 | Illinois | 6.0 |
| 13 | Nevada | 5.9 |
| 14 | Georgia | 5.8 |
| 15 | Florida | 5.5 |
| 16 | Arizona | 5.4 |
| 16 | Texas | 5.4 |
| 18 | California | 5.3 |
| 18 | North Carolina | 5.3 |
| 20 | Pennsylvania | 5.2 |
| 21 | Indiana | 4.8 |
| 22 | Delaware | 4.6 |
| 22 | West Virginia | 4.6 |
| 24 | Ohio | 4.5 |
| 25 | Virginia | 4.4 |
| 26 | Kansas | 4.2 |
| 27 | Kentucky | 4.1 |
| 28 | New York | 4.0 |
| 29 | New Jersey | 3.7 |
| 30 | Colorado | 3.5 |
| 31 | Alaska | 3.1 |
| 32 | Connecticut | 3.0 |
| 33 | Montana | 2.9 |
| 33 | Rhode Island | 2.9 |
| 35 | Washington | 2.7 |
| 36 | Massachusetts | 2.6 |
| 36 | South Dakota | 2.6 |
| 38 | Wisconsin | 2.5 |
| 39 | Wyoming | 2.4 |
| 40 | Nebraska | 2.2 |
| 40 | Oregon | 2.2 |
| 42 | Maine | 2.0 |
| 43 | Hawaii | 1.7 |
| 44 | North Dakota | 1.5 |
| 45 | Idaho | 1.4 |
| 45 | Minnesota | 1.4 |
| 47 | Utah | 1.3 |
| 48 | Iowa | 1.1 |
| 48 | Vermont | 1.1 |
| 50 | New Hampshire | 0.8 |
| | District of Columbia | 24.0 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 337 (Kathleen O. Morgan et al. eds., 2011).

**2009 Murders with Firearms
9,146 National Total**

| <i>Rank</i> | <i>State</i> | <i>Murders</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | California | 1,360 | 14.9% |
| 2 | Texas | 862 | 9.4% |
| 3 | New York | 481 | 5.3% |
| 4 | Pennsylvania | 468 | 5.1% |
| 5 | Michigan | 437 | 4.8% |
| 6 | Louisiana | 402 | 4.4% |
| 7 | Illinois* | 386 | 4.2% |
| 8 | Georgia | 378 | 4.1% |
| 9 | North Carolina | 335 | 3.7% |
| 10 | Ohio | 311 | 3.4% |
| 11 | Maryland | 305 | 3.3% |
| 12 | Tennessee | 295 | 3.2% |
| 13 | Missouri | 276 | 3.0% |
| 14 | Alabama | 229 | 2.5% |
| 14 | Virginia | 229 | 2.5% |
| 16 | New Jersey | 220 | 2.4% |
| 17 | Indiana | 209 | 2.3% |
| 18 | Arizona | 197 | 2.2% |
| 18 | South Carolina | 197 | 2.2% |
| 20 | Oklahoma | 125 | 1.4% |
| 21 | Kentucky | 112 | 1.2% |
| 22 | Arkansas | 107 | 1.2% |
| 23 | Mississippi | 105 | 1.1% |
| 24 | Washington | 101 | 1.1% |
| 25 | Wisconsin | 95 | 1.0% |
| 26 | Colorado | 94 | 1.0% |
| 27 | Massachusetts | 93 | 1.0% |
| 28 | Nevada | 91 | 1.0% |
| 29 | Kansas | 85 | 0.9% |
| 30 | New Mexico | 78 | 0.9% |
| 31 | Connecticut | 70 | 0.8% |
| 32 | Oregon | 41 | 0.4% |
| 33 | Minnesota | 38 | 0.4% |
| 33 | West Virginia | 38 | 0.4% |
| 35 | Delaware | 31 | 0.3% |
| 36 | Utah | 25 | 0.3% |
| 37 | Nebraska | 23 | 0.3% |
| 38 | Montana | 19 | 0.2% |
| 39 | Rhode Island | 18 | 0.2% |
| 40 | Alaska | 13 | 0.1% |
| 41 | Iowa | 11 | 0.1% |
| 41 | Maine | 11 | 0.1% |
| 43 | Hawaii | 8 | 0.1% |
| 43 | Wyoming | 8 | 0.1% |
| 45 | Idaho | 5 | 0.1% |
| 46 | New Hampshire | 4 | 0.0% |
| 46 | South Dakota | 4 | 0.0% |
| 48 | North Dakota | 3 | 0.0% |
| 49 | Vermont | 0 | 0.0% |
| NA | Florida | NA | NA |
| | District of Columbia | 113 | 1.2% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 339 (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

2009 Murders with Firearms per 100,000 Population

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Illinois* | 12.8 |
| 2 | Louisiana | 10.5 |
| 3 | Alabama | 8.0 |
| 4 | Maryland | 6.1 |
| 5 | Mississippi | 5.6 |
| 6 | Kansas | 5.0 |
| 7 | Missouri | 4.9 |
| 8 | Georgia | 4.8 |
| 8 | Tennessee | 4.8 |
| 10 | New Mexico | 4.6 |
| 10 | South Carolina | 4.6 |
| 12 | Michigan | 4.5 |
| 12 | New York | 4.5 |
| 14 | Arkansas | 4.1 |
| 15 | North Carolina | 4.0 |
| 15 | Pennsylvania | 4.0 |
| 17 | Indiana | 3.9 |
| 18 | California | 3.7 |
| 19 | Delaware | 3.5 |
| 19 | Nevada | 3.5 |
| 19 | Oklahoma | 3.5 |
| 19 | Texas | 3.5 |
| 23 | Ohio | 3.3 |
| 24 | Arizona | 3.0 |
| 24 | Virginia | 3.0 |
| 26 | Kentucky | 2.8 |
| 26 | West Virginia | 2.8 |
| 28 | New Jersey | 2.6 |
| 29 | Connecticut | 2.0 |
| 29 | Montana | 2.0 |
| 31 | Alaska | 1.9 |
| 31 | Colorado | 1.9 |
| 33 | Rhode Island | 1.7 |
| 33 | Wisconsin | 1.7 |
| 35 | Massachusetts | 1.6 |
| 35 | Washington | 1.6 |
| 37 | Wyoming | 1.5 |
| 38 | Nebraska | 1.4 |
| 39 | Oregon | 1.1 |
| 40 | Utah | 0.9 |
| 41 | Maine | 0.8 |
| 41 | Minnesota | 0.8 |
| 43 | Hawaii | 0.7 |
| 44 | South Dakota | 0.6 |
| 45 | North Dakota | 0.5 |
| 46 | Iowa | 0.4 |
| 47 | Idaho | 0.3 |
| 47 | New Hampshire | 0.3 |
| 49 | Vermont | 0.0 |
| NA | Florida | NA |
| | District of Columbia | 18.8 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 340 (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

2009 Percent of Murders Involving Firearms

| <i>Rank</i> | <i>State</i> | <i>Percent</i> |
|-------------|----------------------|----------------|
| 1 | Louisiana | 82.7 |
| 2 | Illinois* | 80.6 |
| 3 | Delaware | 75.6 |
| 4 | Wyoming | 72.7 |
| 5 | Missouri | 72.4 |
| 6 | Alabama | 72.0 |
| 6 | Kansas | 72.0 |
| 8 | Indiana | 71.3 |
| 9 | Pennsylvania | 71.1 |
| 10 | Michigan | 69.9 |
| 11 | North Carolina | 69.8 |
| 12 | Georgia | 69.6 |
| 12 | Maryland | 69.6 |
| 14 | Mississippi | 69.5 |
| 15 | California | 69.0 |
| 15 | New Jersey | 69.0 |
| 17 | South Carolina | 68.9 |
| 18 | Montana | 67.9 |
| 19 | Utah | 67.6 |
| 20 | Virginia | 66.0 |
| 20 | Wisconsin | 66.0 |
| 22 | Kentucky | 65.9 |
| 23 | Connecticut | 65.4 |
| 24 | Texas | 65.1 |
| 25 | Tennessee | 64.0 |
| 26 | Arkansas | 62.6 |
| 27 | Ohio | 62.0 |
| 28 | New York | 61.7 |
| 29 | Arizona | 60.1 |
| 30 | Washington | 59.8 |
| 31 | Alaska | 59.1 |
| 32 | Nevada | 58.3 |
| 33 | Rhode Island | 58.1 |
| 34 | Nebraska | 57.5 |
| 35 | Colorado | 56.3 |
| 36 | Oklahoma | 55.6 |
| 37 | Massachusetts | 55.0 |
| 38 | New Mexico | 54.2 |
| 39 | Minnesota | 52.8 |
| 40 | West Virginia | 50.0 |
| 41 | Oregon | 49.4 |
| 42 | Maine | 42.3 |
| 43 | New Hampshire | 40.0 |
| 44 | Hawaii | 38.1 |
| 45 | South Dakota | 36.4 |
| 46 | North Dakota | 33.3 |
| 47 | Iowa | 32.4 |
| 48 | Idaho | 22.7 |
| 49 | Vermont | 0.0 |
| NA | Florida | NA |
| | District of Columbia | 78.5 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 341 (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

**2009 Murders with Handguns
6,452 National Total**

| <i>Rank</i> | <i>State</i> | <i>Murders</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | California | 1,022 | 15.8% |
| 2 | Texas | 661 | 10.2% |
| 3 | Pennsylvania | 373 | 5.8% |
| 4 | Illinois* | 360 | 5.6% |
| 5 | Louisiana | 330 | 5.1% |
| 6 | Georgia | 323 | 5.0% |
| 7 | Maryland | 297 | 4.6% |
| 8 | North Carolina | 243 | 3.8% |
| 9 | Michigan | 239 | 3.7% |
| 10 | Tennessee | 200 | 3.1% |
| 11 | Alabama | 196 | 3.0% |
| 12 | Ohio | 193 | 3.0% |
| 13 | New Jersey | 189 | 2.9% |
| 14 | Missouri | 170 | 2.6% |
| 15 | Arizona | 164 | 2.5% |
| 16 | Indiana | 136 | 2.1% |
| 17 | New York | 117 | 1.8% |
| 18 | South Carolina | 115 | 1.8% |
| 19 | Virginia | 108 | 1.7% |
| 20 | Oklahoma | 104 | 1.6% |
| 21 | Kentucky | 90 | 1.4% |
| 22 | Mississippi | 83 | 1.3% |
| 23 | Washington | 75 | 1.2% |
| 24 | Nevada | 66 | 1.0% |
| 25 | Wisconsin | 65 | 1.0% |
| 26 | Colorado | 55 | 0.9% |
| 27 | Arkansas | 54 | 0.8% |
| 27 | New Mexico | 54 | 0.8% |
| 29 | Connecticut | 51 | 0.8% |
| 30 | Massachusetts | 47 | 0.7% |
| 31 | Kansas | 38 | 0.6% |
| 32 | Minnesota | 35 | 0.5% |
| 33 | Nebraska | 22 | 0.3% |
| 34 | Delaware | 20 | 0.3% |
| 34 | West Virginia | 20 | 0.3% |
| 36 | Utah | 15 | 0.2% |
| 37 | Montana | 9 | 0.1% |
| 37 | Oregon | 9 | 0.1% |
| 39 | Wyoming | 7 | 0.1% |
| 40 | Hawaii | 4 | 0.1% |
| 40 | Maine | 4 | 0.1% |
| 42 | Idaho | 3 | 0.0% |
| 42 | Iowa | 3 | 0.0% |
| 44 | Alaska | 1 | 0.0% |
| 44 | New Hampshire | 1 | 0.0% |
| 44 | North Dakota | 1 | 0.0% |
| 47 | Rhode Island | 0 | 0.0% |
| 47 | South Dakota | 0 | 0.0% |
| 47 | Vermont | 0 | 0.0% |
| NA | Florida | NA | NA |
| | District of Columbia | 80 | 1.2% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 342 (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

2009 Handgun Murders
2.6 Murders per 100,000 Population Nationally

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Illinois* | 12.0 |
| 2 | Louisiana | 8.6 |
| 3 | Alabama | 6.9 |
| 4 | Maryland | 5.9 |
| 5 | Mississippi | 4.5 |
| 6 | Georgia | 4.1 |
| 7 | Tennessee | 3.3 |
| 8 | New Mexico | 3.2 |
| 8 | Pennsylvania | 3.2 |
| 10 | Missouri | 3.0 |
| 11 | North Carolina | 2.9 |
| 11 | Oklahoma | 2.9 |
| 13 | California | 2.8 |
| 14 | South Carolina | 2.7 |
| 14 | Texas | 2.7 |
| 16 | Arizona | 2.5 |
| 16 | Indiana | 2.5 |
| 16 | Michigan | 2.5 |
| 16 | Nevada | 2.5 |
| 20 | Delaware | 2.3 |
| 20 | Kansas | 2.3 |
| 22 | Kentucky | 2.2 |
| 22 | New Jersey | 2.2 |
| 24 | Arkansas | 2.1 |
| 25 | Ohio | 2.0 |
| 26 | West Virginia | 1.5 |
| 27 | Connecticut | 1.4 |
| 27 | Nebraska | 1.4 |
| 27 | Virginia | 1.4 |
| 30 | Wyoming | 1.3 |
| 31 | Washington | 1.2 |
| 31 | Wisconsin | 1.2 |
| 33 | Colorado | 1.1 |
| 33 | New York | 1.1 |
| 35 | Montana | 0.9 |
| 36 | Massachusetts | 0.8 |
| 37 | Minnesota | 0.7 |
| 38 | Utah | 0.5 |
| 39 | Hawaii | 0.3 |
| 39 | Maine | 0.3 |
| 41 | Idaho | 0.2 |
| 41 | North Dakota | 0.2 |
| 41 | Oregon | 0.2 |
| 44 | Alaska | 0.1 |
| 44 | Iowa | 0.1 |
| 44 | New Hampshire | 0.1 |
| 47 | Rhode Island | 0.0 |
| 47 | South Dakota | 0.0 |
| 47 | Vermont | 0.0 |
| NA | Florida | NA |
| | District of Columbia | 13.3 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 343 (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

**2009 Rifle Murders
348 Murders Nationally**

| <i>Rank</i> | <i>State</i> | <i>Murders</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | Texas | 55 | 15.8% |
| 2 | California | 45 | 12.9% |
| 3 | Michigan | 25 | 7.2% |
| 4 | Louisiana | 20 | 5.7% |
| 5 | Georgia | 17 | 4.9% |
| 5 | North Carolina | 17 | 4.9% |
| 7 | Washington | 16 | 4.6% |
| 8 | Pennsylvania | 13 | 3.7% |
| 8 | Tennessee | 13 | 3.7% |
| 10 | Arizona | 10 | 2.9% |
| 10 | Oklahoma | 10 | 2.9% |
| 12 | Kansas | 9 | 2.6% |
| 12 | Mississippi | 9 | 2.6% |
| 14 | Indiana | 8 | 2.3% |
| 14 | Missouri | 8 | 2.3% |
| 14 | New York | 8 | 2.3% |
| 14 | Virginia | 8 | 2.3% |
| 18 | Colorado | 6 | 1.7% |
| 19 | Arkansas | 5 | 1.4% |
| 19 | Illinois* | 5 | 1.4% |
| 19 | Kentucky | 5 | 1.4% |
| 22 | South Carolina | 4 | 1.1% |
| 23 | New Jersey | 3 | 0.9% |
| 23 | Wisconsin | 3 | 0.9% |
| 25 | Delaware | 2 | 0.6% |
| 25 | Hawaii | 2 | 0.6% |
| 25 | Maryland | 2 | 0.6% |
| 25 | Massachusetts | 2 | 0.6% |
| 25 | Montana | 2 | 0.6% |
| 25 | New Mexico | 2 | 0.6% |
| 25 | Ohio | 2 | 0.6% |
| 25 | Oregon | 2 | 0.6% |
| 25 | West Virginia | 2 | 0.6% |
| 34 | Alabama | 1 | 0.3% |
| 34 | Iowa | 1 | 0.3% |
| 34 | Minnesota | 1 | 0.3% |
| 34 | Nebraska | 1 | 0.3% |
| 34 | Nevada | 1 | 0.3% |
| 34 | North Dakota | 1 | 0.3% |
| 34 | South Dakota | 1 | 0.3% |
| 41 | Alaska | 0 | 0.0% |
| 41 | Connecticut | 0 | 0.0% |
| 41 | Idaho | 0 | 0.0% |
| 41 | Maine | 0 | 0.0% |
| 41 | New Hampshire | 0 | 0.0% |
| 41 | Rhode Island | 0 | 0.0% |
| 41 | Utah | 0 | 0.0% |
| 41 | Vermont | 0 | 0.0% |
| 41 | Wyoming | 0 | 0.0% |
| NA | Florida | NA | NA |
| | District of Columbia | 1 | 0.3% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in Crime State Rankings 2011: Crime Across America 345* (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

**2009 Murders Involving Rifles
2.6% of Murders Nationally**

| <i>Rank</i> | <i>State</i> | <i>Percent</i> |
|-------------|----------------------|----------------|
| 1 | North Dakota | 11.1 |
| 2 | Hawaii | 9.5 |
| 2 | Washington | 9.5 |
| 4 | South Dakota | 9.1 |
| 5 | Kansas | 7.6 |
| 6 | Montana | 7.1 |
| 7 | Mississippi | 6.0 |
| 8 | Delaware | 4.9 |
| 9 | Oklahoma | 4.4 |
| 10 | Texas | 4.2 |
| 11 | Louisiana | 4.1 |
| 12 | Michigan | 4.0 |
| 13 | Colorado | 3.6 |
| 14 | North Carolina | 3.5 |
| 15 | Georgia | 3.1 |
| 16 | Arizona | 3.0 |
| 17 | Arkansas | 2.9 |
| 17 | Iowa | 2.9 |
| 17 | Kentucky | 2.9 |
| 20 | Tennessee | 2.8 |
| 21 | Indiana | 2.7 |
| 22 | West Virginia | 2.6 |
| 23 | Nebraska | 2.5 |
| 24 | Oregon | 2.4 |
| 25 | California | 2.3 |
| 25 | Virginia | 2.3 |
| 27 | Missouri | 2.1 |
| 27 | Wisconsin | 2.1 |
| 29 | Pennsylvania | 2.0 |
| 30 | Minnesota | 1.4 |
| 30 | New Mexico | 1.4 |
| 30 | South Carolina | 1.4 |
| 33 | Massachusetts | 1.2 |
| 34 | Illinois* | 1.0 |
| 34 | New York | 1.0 |
| 36 | New Jersey | 0.9 |
| 37 | Nevada | 0.6 |
| 38 | Maryland | 0.5 |
| 39 | Ohio | 0.4 |
| 40 | Alabama | 0.3 |
| 41 | Alaska | 0.0 |
| 41 | Connecticut | 0.0 |
| 41 | Idaho | 0.0 |
| 41 | Maine | 0.0 |
| 41 | New Hampshire | 0.0 |
| 41 | Rhode Island | 0.0 |
| 41 | Utah | 0.0 |
| 41 | Vermont | 0.0 |
| 41 | Wyoming | 0.0 |
| NA | Florida | NA |
| | District of Columbia | 0.7 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 346 (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

**2009 Shotgun Murders
418 Murders Nationally**

| <i>Rank</i> | <i>State</i> | <i>Murders</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | Texas | 58 | 13.9% |
| 2 | California | 49 | 11.7% |
| 3 | Alabama | 32 | 7.7% |
| 4 | Tennessee | 22 | 5.3% |
| 5 | North Carolina | 20 | 4.8% |
| 6 | Georgia | 19 | 4.5% |
| 6 | Michigan | 19 | 4.5% |
| 8 | Indiana | 14 | 3.3% |
| 9 | New York | 13 | 3.1% |
| 10 | South Carolina | 12 | 2.9% |
| 11 | Louisiana | 11 | 2.6% |
| 11 | Missouri | 11 | 2.6% |
| 11 | Pennsylvania | 11 | 2.6% |
| 14 | Arizona | 10 | 2.4% |
| 14 | Oregon | 10 | 2.4% |
| 16 | Ohio | 9 | 2.2% |
| 16 | Wisconsin | 9 | 2.2% |
| 18 | Illinois* | 8 | 1.9% |
| 19 | Virginia | 7 | 1.7% |
| 20 | Colorado | 6 | 1.4% |
| 20 | Kentucky | 6 | 1.4% |
| 20 | Maryland | 6 | 1.4% |
| 20 | Mississippi | 6 | 1.4% |
| 20 | New Jersey | 6 | 1.4% |
| 25 | Arkansas | 5 | 1.2% |
| 25 | Montana | 5 | 1.2% |
| 25 | Utah | 5 | 1.2% |
| 28 | Oklahoma | 4 | 1.0% |
| 28 | Washington | 4 | 1.0% |
| 30 | Iowa | 3 | 0.7% |
| 30 | Nevada | 3 | 0.7% |
| 30 | New Mexico | 3 | 0.7% |
| 30 | West Virginia | 3 | 0.7% |
| 34 | Connecticut | 2 | 0.5% |
| 34 | South Dakota | 2 | 0.5% |
| 36 | Hawaii | 1 | 0.2% |
| 36 | Massachusetts | 1 | 0.2% |
| 36 | Minnesota | 1 | 0.2% |
| 36 | North Dakota | 1 | 0.2% |
| 40 | Alaska | 0 | 0.0% |
| 40 | Delaware | 0 | 0.0% |
| 40 | Idaho | 0 | 0.0% |
| 40 | Kansas | 0 | 0.0% |
| 40 | Maine | 0 | 0.0% |
| 40 | Nebraska | 0 | 0.0% |
| 40 | New Hampshire | 0 | 0.0% |
| 40 | Rhode Island | 0 | 0.0% |
| 40 | Vermont | 0 | 0.0% |
| 40 | Wyoming | 0 | 0.0% |
| NA | Florida | NA | NA |
| | District of Columbia | 1 | 0.2% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in Crime State Rankings 2011: Crime Across America 347* (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

2009 Murders Involving Shotguns
3.1% of Murders Nationally

| <i>Rank</i> | <i>State</i> | <i>Percent</i> |
|-------------|----------------------|----------------|
| 1 | South Dakota | 18.2% |
| 2 | Montana | 17.9% |
| 3 | Utah | 13.5% |
| 4 | Oregon | 12.0% |
| 5 | North Dakota | 11.1% |
| 6 | Alabama | 10.1% |
| 7 | Iowa | 8.8% |
| 8 | Wisconsin | 6.3% |
| 9 | Hawaii | 4.8% |
| 9 | Indiana | 4.8% |
| 9 | Tennessee | 4.8% |
| 12 | Texas | 4.4% |
| 13 | North Carolina | 4.2% |
| 13 | South Carolina | 4.2% |
| 15 | Mississippi | 4.0% |
| 16 | West Virginia | 3.9% |
| 17 | Colorado | 3.6% |
| 18 | Georgia | 3.5% |
| 18 | Kentucky | 3.5% |
| 20 | Arizona | 3.0% |
| 20 | Michigan | 3.0% |
| 22 | Arkansas | 2.9% |
| 22 | Missouri | 2.9% |
| 24 | California | 2.5% |
| 25 | Washington | 2.4% |
| 26 | Louisiana | 2.3% |
| 27 | New Mexico | 2.1% |
| 28 | Virginia | 2.0% |
| 29 | Connecticut | 1.9% |
| 29 | Nevada | 1.9% |
| 29 | New Jersey | 1.9% |
| 32 | Ohio | 1.8% |
| 32 | Oklahoma | 1.8% |
| 34 | Illinois* | 1.7% |
| 34 | New York | 1.7% |
| 34 | Pennsylvania | 1.7% |
| 37 | Maryland | 1.4% |
| 37 | Minnesota | 1.4% |
| 39 | Massachusetts | 0.6% |
| 40 | Alaska | 0.0% |
| 40 | Delaware | 0.0% |
| 40 | Idaho | 0.0% |
| 40 | Kansas | 0.0% |
| 40 | Maine | 0.0% |
| 40 | Nebraska | 0.0% |
| 40 | New Hampshire | 0.0% |
| 40 | Rhode Island | 0.0% |
| 40 | Vermont | 0.0% |
| 40 | Wyoming | 0.0% |
| NA | Florida | NA |
| | District of Columbia | 0.7 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 348 (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

**2009 Knife/Cutting Instrument Murders
1,825 Murders Nationally**

| <i>Rank</i> | <i>State</i> | <i>Murders</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | California | 291 | 15.9% |
| 2 | Texas | 197 | 10.8% |
| 3 | New York | 166 | 9.1% |
| 4 | Pennsylvania | 66 | 3.6% |
| 5 | Arizona | 61 | 3.3% |
| 6 | Maryland | 58 | 3.2% |
| 7 | Georgia | 56 | 3.1% |
| 8 | Ohio | 52 | 2.8% |
| 9 | North Carolina | 49 | 2.7% |
| 10 | Michigan | 47 | 2.6% |
| 11 | Oklahoma | 45 | 2.5% |
| 11 | Tennessee | 45 | 2.5% |
| 13 | New Jersey | 44 | 2.4% |
| 14 | Virginia | 41 | 2.2% |
| 15 | Massachusetts | 40 | 2.2% |
| 15 | Missouri | 40 | 2.2% |
| 17 | Illinois* | 39 | 2.1% |
| 18 | Washington | 35 | 1.9% |
| 19 | Indiana | 34 | 1.9% |
| 20 | Louisiana | 32 | 1.8% |
| 21 | Alabama | 29 | 1.6% |
| 22 | South Carolina | 28 | 1.5% |
| 23 | Nevada | 25 | 1.4% |
| 24 | New Mexico | 24 | 1.3% |
| 25 | Colorado | 23 | 1.3% |
| 26 | Kentucky | 22 | 1.2% |
| 26 | Mississippi | 22 | 1.2% |
| 26 | Wisconsin | 22 | 1.2% |
| 29 | Arkansas | 21 | 1.2% |
| 29 | Oregon | 21 | 1.2% |
| 31 | West Virginia | 19 | 1.0% |
| 32 | Connecticut | 17 | 0.9% |
| 33 | Kansas | 14 | 0.8% |
| 33 | Minnesota | 14 | 0.8% |
| 35 | Iowa | 8 | 0.4% |
| 35 | Nebraska | 8 | 0.4% |
| 35 | Utah | 8 | 0.4% |
| 38 | Delaware | 6 | 0.3% |
| 38 | Maine | 6 | 0.3% |
| 38 | Rhode Island | 6 | 0.3% |
| 41 | South Dakota | 5 | 0.3% |
| 42 | Alaska | 4 | 0.2% |
| 42 | Montana | 4 | 0.2% |
| 42 | Vermont | 4 | 0.2% |
| 45 | Hawaii | 3 | 0.2% |
| 45 | Idaho | 3 | 0.2% |
| 45 | New Hampshire | 3 | 0.2% |
| 48 | Wyoming | 1 | 0.1% |
| 49 | North Dakota | 0 | 0.0% |
| NA | Florida | NA | NA |
| | District of Columbia | 17 | 0.9% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 349 (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

**2009 Hands, Fists, Feet Murders
801 Murders Nationally**

| <i>Rank</i> | <i>State</i> | <i>Murders</i> | <i>% of USA</i> |
|-------------|----------------------|----------------|-----------------|
| 1 | Texas | 113 | 14.1% |
| 2 | California | 107 | 13.4% |
| 3 | Ohio | 44 | 5.5% |
| 4 | North Carolina | 32 | 4.0% |
| 5 | Oklahoma | 30 | 3.7% |
| 6 | Michigan | 29 | 3.6% |
| 6 | Tennessee | 29 | 3.6% |
| 8 | Pennsylvania | 24 | 3.0% |
| 9 | New York | 23 | 2.9% |
| 10 | Virginia | 22 | 2.7% |
| 11 | Alabama | 20 | 2.5% |
| 11 | Colorado | 20 | 2.5% |
| 11 | South Carolina | 20 | 2.5% |
| 14 | New Jersey | 19 | 2.4% |
| 14 | Washington | 19 | 2.4% |
| 16 | Maryland | 18 | 2.2% |
| 17 | Arizona | 17 | 2.1% |
| 18 | Louisiana | 15 | 1.9% |
| 18 | Missouri | 15 | 1.9% |
| 20 | Wisconsin | 14 | 1.7% |
| 21 | Nevada | 13 | 1.6% |
| 21 | New Mexico | 13 | 1.6% |
| 23 | Georgia | 12 | 1.5% |
| 23 | Minnesota | 12 | 1.5% |
| 25 | Indiana | 10 | 1.2% |
| 26 | Iowa | 9 | 1.1% |
| 26 | Kentucky | 9 | 1.1% |
| 26 | Mississippi | 9 | 1.1% |
| 29 | Kansas | 8 | 1.0% |
| 30 | Massachusetts | 7 | 0.9% |
| 31 | Connecticut | 6 | 0.7% |
| 31 | Hawaii | 6 | 0.7% |
| 31 | Illinois* | 6 | 0.7% |
| 31 | West Virginia | 6 | 0.7% |
| 35 | Arkansas | 5 | 0.6% |
| 35 | Idaho | 5 | 0.6% |
| 35 | Nebraska | 5 | 0.6% |
| 38 | Delaware | 3 | 0.4% |
| 38 | Maine | 3 | 0.4% |
| 38 | Montana | 3 | 0.4% |
| 38 | North Dakota | 3 | 0.4% |
| 42 | Alaska | 2 | 0.2% |
| 42 | Oregon | 2 | 0.2% |
| 42 | Rhode Island | 2 | 0.2% |
| 42 | Utah | 2 | 0.2% |
| 42 | Vermont | 2 | 0.2% |
| 47 | New Hampshire | 1 | 0.1% |
| 47 | South Dakota | 1 | 0.1% |
| 47 | Wyoming | 1 | 0.1% |
| NA | Florida | NA | NA |
| | District of Columbia | 5 | 0.6% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 351 (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

2009 Robberies
408,217 Robberies Nationally

| <i>Rank</i> | <i>State</i> | <i>Robberies</i> | <i>% of USA</i> |
|-------------|----------------------|------------------|-----------------|
| 1 | California | 64,093 | 15.7% |
| 2 | Texas | 38,035 | 9.3% |
| 3 | Florida | 30,911 | 7.6% |
| 4 | New York | 28,136 | 6.9% |
| 5 | Illinois | 22,923 | 5.6% |
| 6 | Ohio | 17,782 | 4.4% |
| 7 | Pennsylvania | 17,514 | 4.3% |
| 8 | Georgia | 14,603 | 3.6% |
| 9 | Michigan | 12,330 | 3.0% |
| 10 | Maryland | 12,007 | 2.9% |
| 11 | North Carolina | 11,825 | 2.9% |
| 12 | New Jersey | 11,639 | 2.9% |
| 13 | Tennessee | 9,647 | 2.4% |
| 14 | Arizona | 8,099 | 2.0% |
| 15 | Missouri | 7,452 | 1.8% |
| 16 | Massachusetts | 7,427 | 1.8% |
| 17 | Indiana | 7,352 | 1.8% |
| 18 | Washington | 6,699 | 1.6% |
| 19 | Alabama | 6,259 | 1.5% |
| 20 | Virginia | 6,257 | 1.5% |
| 21 | Louisiana | 6,105 | 1.5% |
| 22 | Nevada | 6,021 | 1.5% |
| 23 | South Carolina | 5,735 | 1.4% |
| 24 | Wisconsin | 4,850 | 1.2% |
| 25 | Connecticut | 3,990 | 1.0% |
| 26 | Kentucky | 3,629 | 0.9% |
| 27 | Minnesota | 3,619 | 0.9% |
| 28 | Colorado | 3,387 | 0.8% |
| 29 | Oklahoma | 3,343 | 0.8% |
| 30 | Mississippi | 2,965 | 0.7% |
| 31 | Arkansas | 2,582 | 0.6% |
| 32 | Oregon | 2,461 | 0.6% |
| 33 | New Mexico | 1,870 | 0.5% |
| 34 | Kansas | 1,786 | 0.4% |
| 35 | Delaware | 1,671 | 0.4% |
| 36 | Utah | 1,299 | 0.3% |
| 37 | Nebraska | 1,219 | 0.3% |
| 38 | Iowa | 1,195 | 0.3% |
| 39 | Hawaii | 1,034 | 0.3% |
| 40 | West Virginia | 917 | 0.2% |
| 41 | Rhode Island | 786 | 0.2% |
| 42 | Alaska | 655 | 0.2% |
| 43 | New Hampshire | 455 | 0.1% |
| 44 | Maine | 399 | 0.1% |
| 45 | Idaho | 245 | 0.1% |
| 46 | Montana | 216 | 0.1% |
| 47 | South Dakota | 111 | 0.0% |
| 47 | Vermont | 111 | 0.0% |
| 49 | North Dakota | 105 | 0.0% |
| 50 | Wyoming | 77 | 0.0% |
| | District of Columbia | 4,389 | 1.1% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in Crime State Rankings 2011: Crime Across America 359* (Kathleen O. Morgan et al. eds., 2011).

2009 Rate of Robbery
133.0 Robberies per 100,000 Population Nationally

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Nevada | 227.8 |
| 2 | Maryland | 210.7 |
| 3 | Delaware | 188.8 |
| 4 | Illinois | 177.6 |
| 5 | California | 173.4 |
| 6 | Florida | 166.7 |
| 7 | Ohio | 154.1 |
| 8 | Texas | 153.5 |
| 9 | Tennessee | 153.2 |
| 10 | Georgia | 148.6 |
| 11 | New York | 144 |
| 12 | Pennsylvania | 138.9 |
| 13 | Louisiana | 135.9 |
| 14 | New Jersey | 133.7 |
| 15 | Alabama | 132.9 |
| 16 | North Carolina | 126.1 |
| 17 | South Carolina | 125.7 |
| 18 | Missouri | 124.5 |
| 19 | Michigan | 123.7 |
| 20 | Arizona | 122.8 |
| 21 | Indiana | 114.5 |
| 22 | Connecticut | 113.4 |
| 23 | Massachusetts | 112.6 |
| 24 | Washington | 100.5 |
| 25 | Mississippi | 100.4 |
| 26 | Alaska | 93.8 |
| 27 | New Mexico | 93.1 |
| 28 | Oklahoma | 90.7 |
| 29 | Arkansas | 89.4 |
| 30 | Wisconsin | 85.8 |
| 31 | Kentucky | 84.1 |
| 32 | Hawaii | 79.8 |
| 33 | Virginia | 79.4 |
| 34 | Rhode Island | 74.6 |
| 35 | Minnesota | 68.7 |
| 36 | Nebraska | 67.8 |
| 37 | Colorado | 67.4 |
| 38 | Oregon | 64.3 |
| 39 | Kansas | 63.4 |
| 40 | West Virginia | 50.4 |
| 41 | Utah | 46.6 |
| 42 | Iowa | 39.7 |
| 43 | New Hampshire | 34.4 |
| 44 | Maine | 30.3 |
| 45 | Montana | 22.2 |
| 46 | Vermont | 17.9 |
| 47 | North Dakota | 16.2 |
| 48 | Idaho | 15.8 |
| 49 | Wyoming | 14.1 |
| 50 | South Dakota | 13.7 |
| | District of Columbia | 731.9 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 362 (Kathleen O. Morgan et al. eds., 2011).

2009 Robberies with Firearms
149,335 Robberies Nationally

| <i>Rank</i> | <i>State</i> | <i>Robberies</i> | <i>% of USA</i> |
|-------------|----------------------|------------------|-----------------|
| 1 | California | 19,820 | 13.3% |
| 2 | Texas | 19,036 | 12.7% |
| 3 | Florida | 13,668 | 9.2% |
| 4 | Georgia | 7,582 | 5.1% |
| 5 | Pennsylvania | 7,243 | 4.9% |
| 6 | Ohio | 6,963 | 4.7% |
| 7 | Michigan | 6,148 | 4.1% |
| 8 | North Carolina | 6,130 | 4.1% |
| 9 | Tennessee | 5,692 | 3.8% |
| 10 | Missouri | 3,859 | 2.6% |
| 11 | Maryland | 3,810 | 2.6% |
| 12 | Arizona | 3,671 | 2.5% |
| 13 | New Jersey | 3,598 | 2.4% |
| 14 | Indiana | 3,434 | 2.3% |
| 15 | Louisiana | 3,217 | 2.2% |
| 16 | Virginia | 3,107 | 2.1% |
| 17 | South Carolina | 3,058 | 2.0% |
| 18 | New York | 2,797 | 1.9% |
| 19 | Wisconsin | 2,565 | 1.7% |
| 20 | Nevada | 2,286 | 1.5% |
| 21 | Massachusetts | 1,756 | 1.2% |
| 22 | Washington | 1,713 | 1.1% |
| 23 | Oklahoma | 1,580 | 1.1% |
| 24 | Kentucky | 1,523 | 1.0% |
| 25 | Connecticut | 1,445 | 1.0% |
| 26 | Alabama | 1,384 | 0.9% |
| 27 | Mississippi | 1,329 | 0.9% |
| 28 | Arkansas | 1,211 | 0.8% |
| 29 | Colorado | 1,190 | 0.8% |
| 30 | Minnesota | 1,120 | 0.7% |
| 31 | Kansas | 763 | 0.5% |
| 32 | New Mexico | 756 | 0.5% |
| 33 | Delaware | 755 | 0.5% |
| 34 | Nebraska | 588 | 0.4% |
| 35 | Oregon | 554 | 0.4% |
| 36 | Utah | 413 | 0.3% |
| 37 | Iowa | 322 | 0.2% |
| 38 | Rhode Island | 229 | 0.2% |
| 39 | West Virginia | 188 | 0.1% |
| 40 | Alaska | 169 | 0.1% |
| 41 | Hawaii | 110 | 0.1% |
| 42 | Idaho | 101 | 0.1% |
| 43 | New Hampshire | 85 | 0.1% |
| 44 | Maine | 77 | 0.1% |
| 45 | Montana | 52 | 0.0% |
| 46 | Vermont | 36 | 0.0% |
| 47 | Wyoming | 32 | 0.0% |
| 48 | North Dakota | 24 | 0.0% |
| 48 | South Dakota | 24 | 0.0% |
| NA | Illinois | NA | NA |
| | District of Columbia | 1,860 | 1.2% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 364 (Kathleen O. Morgan et al. eds., 2011).

**2009 Rate of Robbery with Firearms
55.9 Robberies per 100,000 Population Nationally**

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Georgia | 95.9 |
| 2 | Tennessee | 92.7 |
| 3 | Nevada | 88.1 |
| 4 | Delaware | 85.4 |
| 5 | Louisiana | 83.7 |
| 6 | Texas | 77.1 |
| 7 | Maryland | 75.7 |
| 8 | Florida | 73.8 |
| 9 | North Carolina | 73.5 |
| 9 | Ohio | 73.5 |
| 11 | South Carolina | 71.8 |
| 12 | Mississippi | 71.4 |
| 13 | Missouri | 69.0 |
| 14 | Indiana | 64.1 |
| 15 | Michigan | 63.2 |
| 16 | Pennsylvania | 62.2 |
| 17 | Arizona | 56.7 |
| 18 | California | 53.9 |
| 19 | Alabama | 48.5 |
| 20 | Wisconsin | 46.3 |
| 21 | Arkansas | 46.0 |
| 22 | Kansas | 45.3 |
| 23 | Oklahoma | 44.7 |
| 24 | New Mexico | 44.4 |
| 25 | New Jersey | 41.9 |
| 26 | Connecticut | 41.1 |
| 27 | Virginia | 40.4 |
| 28 | Kentucky | 37.7 |
| 29 | Nebraska | 36.4 |
| 30 | Massachusetts | 29.4 |
| 31 | Washington | 27.6 |
| 32 | New York | 26.0 |
| 33 | Colorado | 24.7 |
| 34 | Alaska | 24.5 |
| 35 | Minnesota | 22.1 |
| 36 | Rhode Island | 21.7 |
| 37 | Utah | 15.0 |
| 38 | Oregon | 14.7 |
| 39 | West Virginia | 14.1 |
| 40 | Iowa | 11.7 |
| 41 | Hawaii | 9.6 |
| 42 | New Hampshire | 7.3 |
| 43 | Idaho | 6.6 |
| 44 | Vermont | 5.9 |
| 44 | Wyoming | 5.9 |
| 46 | Maine | 5.8 |
| 47 | Montana | 5.4 |
| 48 | North Dakota | 3.9 |
| 49 | South Dakota | 3.4 |
| NA | Illinois | NA |
| | District of Columbia | 310.2 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 365 (Kathleen O. Morgan et al. eds., 2011).

**2009 Aggravated Assaults with Firearms
146,773 Aggravated Assaults Nationally**

| <i>Rank</i> | <i>State</i> | <i>Assaults</i> | <i>% of USA</i> |
|-------------|----------------------|-----------------|-----------------|
| 1 | Texas | 17,516 | 11.9% |
| 2 | California | 17,297 | 11.8% |
| 3 | Florida | 15,015 | 10.2% |
| 4 | Tennessee | 9,154 | 6.2% |
| 5 | Michigan | 8,251 | 5.6% |
| 6 | North Carolina | 6,110 | 4.2% |
| 7 | Missouri | 5,789 | 3.9% |
| 8 | South Carolina | 5,685 | 3.9% |
| 9 | Georgia | 5,186 | 3.5% |
| 10 | Pennsylvania | 4,851 | 3.3% |
| 11 | Louisiana | 4,308 | 2.9% |
| 12 | Arizona | 4,053 | 2.8% |
| 13 | Ohio | 3,510 | 2.4% |
| 14 | Arkansas | 2,515 | 1.7% |
| 15 | Oklahoma | 2,449 | 1.7% |
| 16 | New York | 2,276 | 1.6% |
| 17 | Colorado | 2,059 | 1.4% |
| 18 | New Jersey | 1,969 | 1.3% |
| 19 | Massachusetts | 1,940 | 1.3% |
| 20 | Wisconsin | 1,900 | 1.3% |
| 21 | Maryland | 1,838 | 1.3% |
| 22 | Kansas | 1,820 | 1.2% |
| 23 | Virginia | 1,819 | 1.2% |
| 24 | Indiana | 1,723 | 1.2% |
| 25 | Washington | 1,719 | 1.2% |
| 26 | Nevada | 1,707 | 1.2% |
| 27 | Alabama | 1,609 | 1.1% |
| 28 | New Mexico | 1,596 | 1.1% |
| 29 | Minnesota | 1,175 | 0.8% |
| 30 | Kentucky | 1,017 | 0.7% |
| 31 | Delaware | 843 | 0.6% |
| 32 | Mississippi | 822 | 0.6% |
| 33 | Connecticut | 772 | 0.5% |
| 34 | West Virginia | 762 | 0.5% |
| 35 | Oregon | 613 | 0.4% |
| 36 | Alaska | 540 | 0.4% |
| 37 | Utah | 537 | 0.4% |
| 38 | Iowa | 508 | 0.3% |
| 39 | Nebraska | 490 | 0.3% |
| 40 | Idaho | 401 | 0.3% |
| 41 | Rhode Island | 320 | 0.2% |
| 42 | Montana | 297 | 0.2% |
| 43 | New Hampshire | 191 | 0.1% |
| 44 | Hawaii | 156 | 0.1% |
| 45 | South Dakota | 109 | 0.1% |
| 46 | Wyoming | 98 | 0.1% |
| 47 | Vermont | 62 | 0.0% |
| 48 | Maine | 32 | 0.0% |
| 49 | North Dakota | 12 | 0.0% |
| NA | Illinois | NA | NA |
| | District of Columbia | 728 | 0.5% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 379 (Kathleen O. Morgan et al. eds., 2011).

2009 Rate of Aggravated Assault with Firearms
55.0 Aggravated Assaults per 100,000 Population Nationally

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | Tennessee | 149.1 |
| 2 | South Carolina | 133.6 |
| 3 | Louisiana | 112.0 |
| 4 | Kansas | 108.0 |
| 5 | Missouri | 103.6 |
| 6 | Arkansas | 95.5 |
| 7 | Delaware | 95.3 |
| 8 | New Mexico | 93.7 |
| 9 | Michigan | 84.8 |
| 10 | Florida | 81.1 |
| 11 | Alaska | 78.3 |
| 12 | North Carolina | 73.2 |
| 13 | Texas | 71.0 |
| 14 | Oklahoma | 69.4 |
| 15 | Nevada | 65.8 |
| 16 | Georgia | 65.6 |
| 17 | Arizona | 62.6 |
| 18 | West Virginia | 57.1 |
| 19 | Alabama | 56.4 |
| 20 | California | 47.1 |
| 21 | Mississippi | 44.1 |
| 22 | Colorado | 42.7 |
| 23 | Pennsylvania | 41.6 |
| 24 | Ohio | 37.0 |
| 25 | Maryland | 36.5 |
| 26 | Wisconsin | 34.3 |
| 27 | Massachusetts | 32.5 |
| 28 | Indiana | 32.2 |
| 29 | Montana | 30.8 |
| 30 | Rhode Island | 30.4 |
| 31 | Nebraska | 30.3 |
| 32 | Washington | 27.7 |
| 33 | Idaho | 26.3 |
| 34 | Kentucky | 25.2 |
| 35 | Virginia | 23.6 |
| 36 | Minnesota | 23.2 |
| 37 | New Jersey | 22.9 |
| 38 | Connecticut | 21.9 |
| 39 | New York | 21.2 |
| 40 | Utah | 19.5 |
| 41 | Iowa | 18.5 |
| 42 | Wyoming | 18.2 |
| 43 | New Hampshire | 16.5 |
| 44 | Oregon | 16.3 |
| 45 | South Dakota | 15.4 |
| 46 | Hawaii | 13.6 |
| 47 | Vermont | 10.2 |
| 48 | Maine | 2.4 |
| 49 | North Dakota | 2.0 |
| NA | Illinois | NA |
| | District of Columbia | 121.4 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 380 (Kathleen O. Morgan et al. eds., 2011).

2009 Aggravated Assaults with Knives or Cutting Instruments
131,547 Aggravated Assaults Nationally

| <i>Rank</i> | <i>State</i> | <i>Assaults</i> | <i>% of USA</i> |
|-------------|----------------------|-----------------|-----------------|
| 1 | Texas | 16,393 | 12.5% |
| 2 | California | 16,058 | 12.2% |
| 3 | Florida | 13,439 | 10.2% |
| 4 | Tennessee | 6,018 | 4.6% |
| 5 | Michigan | 5,964 | 4.5% |
| 6 | New York | 4,995 | 3.8% |
| 7 | Massachusetts | 4,408 | 3.4% |
| 8 | North Carolina | 4,288 | 3.3% |
| 9 | South Carolina | 3,908 | 3.0% |
| 10 | Georgia | 3,714 | 2.8% |
| 11 | Pennsylvania | 3,689 | 2.8% |
| 12 | Maryland | 3,178 | 2.4% |
| 13 | New Jersey | 3,095 | 2.4% |
| 14 | Ohio | 2,934 | 2.2% |
| 15 | Arizona | 2,737 | 2.1% |
| 16 | Louisiana | 2,634 | 2.0% |
| 17 | Missouri | 2,526 | 1.9% |
| 18 | Colorado | 2,326 | 1.8% |
| 19 | Virginia | 2,128 | 1.6% |
| 20 | Oklahoma | 2,098 | 1.6% |
| 21 | Washington | 2,023 | 1.5% |
| 22 | Nevada | 2,009 | 1.5% |
| 23 | Arkansas | 1,597 | 1.2% |
| 24 | Indiana | 1,544 | 1.2% |
| 25 | Minnesota | 1,420 | 1.1% |
| 26 | New Mexico | 1,373 | 1.0% |
| 27 | Connecticut | 1,215 | 0.9% |
| 28 | Kansas | 1,051 | 0.8% |
| 29 | Iowa | 1,044 | 0.8% |
| 30 | Utah | 1,039 | 0.8% |
| 31 | Oregon | 976 | 0.7% |
| 32 | Alabama | 924 | 0.7% |
| 33 | Kentucky | 881 | 0.7% |
| 34 | Wisconsin | 814 | 0.6% |
| 35 | Delaware | 798 | 0.6% |
| 36 | Alaska | 704 | 0.5% |
| 37 | West Virginia | 598 | 0.5% |
| 38 | Mississippi | 520 | 0.4% |
| 39 | Nebraska | 493 | 0.4% |
| 40 | Idaho | 469 | 0.4% |
| 41 | Hawaii | 426 | 0.3% |
| 42 | Rhode Island | 418 | 0.3% |
| 43 | New Hampshire | 392 | 0.3% |
| 44 | South Dakota | 307 | 0.2% |
| 45 | Montana | 260 | 0.2% |
| 46 | Wyoming | 179 | 0.1% |
| 47 | Maine | 146 | 0.1% |
| 48 | Vermont | 116 | 0.1% |
| 49 | North Dakota | 79 | 0.1% |
| NA | Illinois | NA | NA |
| | District of Columbia | 953 | 0.7% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 382 (Kathleen O. Morgan et al. eds., 2011).

**2009 Rate of Aggravated Assault with Knives or Cutting Instruments
18.7% of Aggravated Assaults Nationally**

| <i>Rank</i> | <i>State</i> | <i>Percent</i> |
|-------------|----------------------|----------------|
| 1 | South Dakota | 35.5% |
| 2 | New Hampshire | 34.1% |
| 3 | New York | 29.7% |
| 4 | Utah | 28.5% |
| 5 | Rhode Island | 26.9% |
| 6 | Massachusetts | 23.3% |
| 7 | Virginia | 23.2% |
| 8 | Hawaii | 22.5% |
| 9 | Delaware | 22.3% |
| 10 | Maryland | 22.2% |
| 10 | Texas | 22.2% |
| 12 | New Jersey | 22.1% |
| 13 | Alaska | 22.0% |
| 14 | Colorado | 21.4% |
| 15 | Connecticut | 21.1% |
| 16 | Vermont | 20.7% |
| 17 | Tennessee | 20.5% |
| 18 | North Carolina | 20.4% |
| 19 | Kansas | 20.1% |
| 19 | Ohio | 20.1% |
| 21 | Minnesota | 19.9% |
| 22 | Maine | 18.8% |
| 22 | Michigan | 18.8% |
| 24 | Wyoming | 18.7% |
| 25 | West Virginia | 18.5% |
| 26 | Oregon | 18.4% |
| 27 | Mississippi | 18.1% |
| 28 | South Carolina | 18.0% |
| 29 | Georgia | 17.9% |
| 30 | Nevada | 17.8% |
| 31 | Florida | 17.7% |
| 32 | Iowa | 17.5% |
| 33 | Idaho | 17.4% |
| 34 | Arizona | 17.1% |
| 35 | Washington | 16.9% |
| 36 | New Mexico | 16.8% |
| 37 | Oklahoma | 16.5% |
| 38 | California | 16.2% |
| 39 | Nebraska | 16.1% |
| 40 | Arkansas | 15.7% |
| 41 | Kentucky | 15.6% |
| 42 | Louisiana | 15.5% |
| 43 | Pennsylvania | 15.0% |
| 44 | Indiana | 14.0% |
| 45 | Alabama | 13.7% |
| 46 | Montana | 13.6% |
| 47 | Missouri | 13.2% |
| 48 | Wisconsin | 9.9% |
| 49 | North Dakota | 8.5% |
| NA | Illinois | NA |
| | District of Columbia | 28.1 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 383 (Kathleen O. Morgan et al. eds., 2011).

**2009 Aggravated Assaults with Blunt Objects and Other Dangerous Weapons
234,973 Aggravated Assaults Nationally**

| <i>Rank</i> | <i>State</i> | <i>Assaults</i> | <i>% of USA</i> |
|-------------|----------------------|-----------------|-----------------|
| 1 | California | 35,325 | 15.0% |
| 2 | Florida | 29,167 | 12.4% |
| 3 | Texas | 26,622 | 11.3% |
| 4 | Michigan | 11,390 | 4.8% |
| 5 | Tennessee | 11,015 | 4.7% |
| 6 | Massachusetts | 9,715 | 4.1% |
| 7 | Pennsylvania | 6,181 | 2.6% |
| 8 | South Carolina | 5,988 | 2.5% |
| 9 | North Carolina | 5,816 | 2.5% |
| 10 | Nevada | 5,680 | 2.4% |
| 11 | Georgia | 5,578 | 2.4% |
| 12 | Arizona | 5,054 | 2.2% |
| 13 | Missouri | 5,020 | 2.1% |
| 14 | Maryland | 4,986 | 2.1% |
| 15 | New York | 4,859 | 2.1% |
| 16 | Oklahoma | 4,583 | 2.0% |
| 17 | Ohio | 4,525 | 1.9% |
| 18 | New Jersey | 4,476 | 1.9% |
| 19 | Louisiana | 4,409 | 1.9% |
| 20 | Washington | 3,843 | 1.6% |
| 21 | Indiana | 3,448 | 1.5% |
| 22 | Virginia | 3,127 | 1.3% |
| 23 | Colorado | 3,011 | 1.3% |
| 24 | Kentucky | 2,350 | 1.0% |
| 25 | New Mexico | 2,347 | 1.0% |
| 26 | Arkansas | 2,169 | 0.9% |
| 27 | Connecticut | 2,079 | 0.9% |
| 28 | Minnesota | 2,037 | 0.9% |
| 29 | Oregon | 1,925 | 0.8% |
| 30 | Alabama | 1,635 | 0.7% |
| 31 | Delaware | 1,564 | 0.7% |
| 32 | Wisconsin | 1,518 | 0.6% |
| 33 | Kansas | 1,393 | 0.6% |
| 34 | Iowa | 1,306 | 0.6% |
| 35 | Nebraska | 1,298 | 0.6% |
| 36 | Utah | 1,199 | 0.5% |
| 37 | Idaho | 1,032 | 0.4% |
| 38 | Alaska | 855 | 0.4% |
| 39 | West Virginia | 849 | 0.4% |
| 40 | Mississippi | 840 | 0.4% |
| 41 | Hawaii | 648 | 0.3% |
| 42 | Rhode Island | 605 | 0.3% |
| 43 | Montana | 580 | 0.2% |
| 44 | New Hampshire | 306 | 0.1% |
| 45 | Wyoming | 270 | 0.1% |
| 46 | South Dakota | 264 | 0.1% |
| 47 | Maine | 240 | 0.1% |
| 48 | North Dakota | 151 | 0.1% |
| 49 | Vermont | 120 | 0.1% |
| NA | Illinois | NA | NA |
| | District of Columbia | 1,256 | 0.5% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 384 (Kathleen O. Morgan et al. eds., 2011).

2009 Aggravated Assaults with Hands, Fists, or Feet
188,668 Aggravated Assaults Nationally

| <i>Rank</i> | <i>State</i> | <i>Assaults</i> | <i>% of USA</i> |
|-------------|----------------------|-----------------|-----------------|
| 1 | California | 30,524 | 16.2% |
| 2 | Florida | 18,402 | 9.8% |
| 3 | Texas | 13,292 | 7.0% |
| 4 | Pennsylvania | 9,941 | 5.3% |
| 5 | Georgia | 6,248 | 3.3% |
| 6 | Michigan | 6,143 | 3.3% |
| 7 | South Carolina | 6,101 | 3.2% |
| 8 | Missouri | 5,757 | 3.1% |
| 9 | Louisiana | 5,612 | 3.0% |
| 10 | North Carolina | 4,811 | 2.5% |
| 11 | New York | 4,671 | 2.5% |
| 12 | New Jersey | 4,480 | 2.4% |
| 13 | Washington | 4,386 | 2.3% |
| 14 | Maryland | 4,341 | 2.3% |
| 15 | Indiana | 4,312 | 2.3% |
| 16 | Arizona | 4,123 | 2.2% |
| 17 | Wisconsin | 3,974 | 2.1% |
| 18 | Arkansas | 3,885 | 2.1% |
| 19 | Ohio | 3,623 | 1.9% |
| 20 | Oklahoma | 3,614 | 1.9% |
| 21 | Colorado | 3,461 | 1.8% |
| 22 | Tennessee | 3,203 | 1.7% |
| 23 | Iowa | 3,120 | 1.7% |
| 24 | New Mexico | 2,852 | 1.5% |
| 25 | Massachusetts | 2,832 | 1.5% |
| 26 | Alabama | 2,601 | 1.4% |
| 27 | Minnesota | 2,506 | 1.3% |
| 28 | Virginia | 2,113 | 1.1% |
| 29 | Nevada | 1,859 | 1.0% |
| 30 | Oregon | 1,776 | 0.9% |
| 31 | Connecticut | 1,694 | 0.9% |
| 32 | Kentucky | 1,393 | 0.7% |
| 33 | Alaska | 1,095 | 0.6% |
| 34 | West Virginia | 1,030 | 0.5% |
| 35 | Kansas | 972 | 0.5% |
| 36 | Utah | 873 | 0.5% |
| 37 | Idaho | 793 | 0.4% |
| 38 | Montana | 778 | 0.4% |
| 49 | Nebraska | 773 | 0.4% |
| 40 | Mississippi | 691 | 0.4% |
| 41 | North Dakota | 689 | 0.4% |
| 42 | Hawaii | 667 | 0.4% |
| 43 | Wyoming | 409 | 0.2% |
| 44 | Delaware | 375 | 0.2% |
| 45 | Maine | 360 | 0.2% |
| 46 | New Hampshire | 262 | 0.1% |
| 46 | Vermont | 262 | 0.1% |
| 48 | Rhode Island | 213 | 0.1% |
| 49 | South Dakota | 185 | 0.1% |
| NA | Illinois | NA | NA |
| | District of Columbia | 451 | 0.2% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 386 (Kathleen O. Morgan et al. eds., 2011).

**2009 Violent Crimes at Universities or Colleges
2,674 Violent Crimes Nationally**

| <i>Rank</i> | <i>State</i> | <i>Violent crimes</i> | <i>% of USA</i> |
|-------------|----------------------|-----------------------|-----------------|
| 1 | California | 379 | 14.2% |
| 2 | Texas | 207 | 7.7% |
| 3 | Massachusetts | 182 | 6.8% |
| 4 | Georgia | 137 | 5.1% |
| 5 | Pennsylvania | 112 | 4.2% |
| 6 | Florida | 108 | 4.0% |
| 7 | Virginia | 103 | 3.9% |
| 8 | Maryland | 93 | 3.5% |
| 9 | North Carolina | 91 | 3.4% |
| 10 | Arizona | 86 | 3.2% |
| 11 | Louisiana | 85 | 3.2% |
| 12 | Ohio | 84 | 3.1% |
| 13 | New Jersey | 83 | 3.1% |
| 14 | Michigan | 75 | 2.8% |
| 15 | New York | 72 | 2.7% |
| 16 | Missouri | 68 | 2.5% |
| 17 | Tennessee | 65 | 2.4% |
| 18 | South Carolina | 60 | 2.2% |
| 19 | Indiana | 54 | 2.0% |
| 20 | West Virginia | 52 | 1.9% |
| 21 | New Mexico | 50 | 1.9% |
| 22 | Kentucky | 49 | 1.8% |
| 23 | Alabama | 48 | 1.8% |
| 24 | Arkansas | 46 | 1.7% |
| 25 | Colorado | 45 | 1.7% |
| 26 | Washington | 39 | 1.5% |
| 27 | Oklahoma | 26 | 1.0% |
| 27 | Wisconsin | 26 | 1.0% |
| 29 | Connecticut | 21 | 0.8% |
| 30 | Mississippi | 19 | 0.7% |
| 31 | Iowa | 18 | 0.7% |
| 32 | Delaware | 15 | 0.6% |
| 33 | Kansas | 14 | 0.5% |
| 33 | Utah | 14 | 0.5% |
| 35 | Nevada | 9 | 0.3% |
| 36 | New Hampshire | 8 | 0.3% |
| 37 | North Dakota | 6 | 0.2% |
| 38 | Montana | 5 | 0.2% |
| 38 | Rhode Island | 5 | 0.2% |
| 40 | Alaska | 4 | 0.1% |
| 40 | Maine | 4 | 0.1% |
| 40 | Nebraska | 4 | 0.1% |
| 43 | Vermont | 3 | 0.1% |
| 44 | South Dakota | 0 | 0.0% |
| 44 | Wyoming | 0 | 0.0% |
| NA | Hawaii | NA | NA |
| NA | Idaho | NA | NA |
| NA | Illinois | NA | NA |
| NA | Minnesota | NA | NA |
| NA | Oregon | NA | NA |
| | District of Columbia | NA | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 472 (Kathleen O. Morgan et al. eds., 2011).

**2009 Violent Crime Rate at Universities or Colleges
39.5 Violent Crimes per 100,000 Enrollment Nationally**

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | New Mexico | 105.7 |
| 2 | West Virginia | 93.9 |
| 3 | Maryland | 78.6 |
| 4 | Louisiana | 72.9 |
| 5 | Massachusetts | 69.2 |
| 6 | Arkansas | 66.3 |
| 7 | Delaware | 62.4 |
| 8 | New York | 62.1 |
| 9 | Pennsylvania | 54.6 |
| 10 | South Carolina | 54.0 |
| 11 | New Hampshire | 53.7 |
| 12 | Georgia | 53.1 |
| 13 | Arizona | 48.7 |
| 14 | Missouri | 45.9 |
| 15 | Connecticut | 45.6 |
| 16 | New Jersey | 45.0 |
| 17 | Indiana | 42.9 |
| 18 | Alabama | 42.8 |
| 19 | North Carolina | 41.6 |
| 20 | Kentucky | 41.1 |
| 21 | California | 39.8 |
| 22 | Mississippi | 38.6 |
| 23 | Virginia | 37.5 |
| 24 | Washington | 36.9 |
| 25 | Tennessee | 36.5 |
| 26 | Florida | 31.8 |
| 27 | Colorado | 30.0 |
| 28 | Ohio | 27.1 |
| 29 | Texas | 27.0 |
| 30 | Iowa | 26.1 |
| 31 | Vermont | 23.4 |
| 32 | Oklahoma | 23.3 |
| 33 | Kansas | 22.7 |
| 34 | Michigan | 22.1 |
| 35 | Nevada | 21.9 |
| 36 | North Dakota | 20.9 |
| 37 | Rhode Island | 20.6 |
| 38 | Montana | 19.1 |
| 39 | Maine | 16.7 |
| 39 | Wisconsin | 16.7 |
| 41 | Alaska | 15.9 |
| 42 | Nebraska | 13.3 |
| 43 | Utah | 10.4 |
| 44 | South Dakota | 0.0 |
| 44 | Wyoming | 0.0 |
| NA | Hawaii | NA |
| NA | Idaho | NA |
| NA | Illinois | NA |
| NA | Minnesota | NA |
| NA | Oregon | NA |
| | District of Columbia | NA |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2009, *in* Crime State Rankings 2011: Crime Across America 473 (Kathleen O. Morgan et al. eds., 2011).

2005-2009 Percent Change in Murders
9.0% Decrease Nationally

| <i>Rank</i> | <i>State</i> | <i>Percent Change</i> |
|-------------|----------------------|-----------------------|
| 1 | Montana | 55.6 |
| 2 | Maine | 36.8 |
| 3 | Oklahoma | 21.9 |
| 4 | New Mexico | 21.5 |
| 5 | Kansas | 17.8 |
| 5 | Louisiana | 17.8 |
| 7 | South Dakota | 16.7 |
| 8 | Florida | 15.2 |
| 9 | Delaware | 10.8 |
| 10 | Tennessee | 7.0 |
| 11 | Oregon | 6.3 |
| 12 | West Virginia | 2.4 |
| 13 | Connecticut | 1.9 |
| 14 | Colorado | 1.2 |
| 15 | Georgia | 0.4 |
| 15 | Illinois* | 0.4 |
| 17 | Michigan | (0.3) |
| 18 | Massachusetts | (3.4) |
| 19 | Missouri | (4.7) |
| 20 | Arkansas | (5.3) |
| 21 | Texas | (5.6) |
| 22 | Kentucky | (6.3) |
| 23 | Wyoming | (7.1) |
| 24 | Hawaii | (8.3) |
| 25 | South Carolina | (8.6) |
| 26 | Rhode Island | (8.8) |
| 27 | Nebraska | (9.1) |
| 28 | New York | (11.0) |
| 29 | Mississippi | (11.2) |
| 30 | Ohio | (12.0) |
| 31 | Vermont | (12.5) |
| 32 | Pennsylvania | (12.6) |
| 33 | Washington | (12.7) |
| 34 | Indiana | (12.9) |
| 35 | Alabama | (13.6) |
| 36 | Iowa | (15.0) |
| 37 | North Carolina | (15.6) |
| 38 | North Dakota | (16.7) |
| 39 | Arizona | (20.4) |
| 40 | Maryland | (20.7) |
| 41 | California | (21.2) |
| 42 | New Jersey | (23.5) |
| 43 | Nevada | (23.8) |
| 44 | Virginia | (24.2) |
| 45 | Wisconsin | (30.1) |
| 46 | Alaska | (31.3) |
| 47 | Utah | (33.9) |
| 48 | Minnesota | (35.7) |
| 49 | Idaho | (37.1) |
| 50 | New Hampshire | (47.4) |
| | District of Columbia | (26.2) |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Crime in the United States 2006, *in* Crime State Rankings 2011: Crime Across America 487 (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

2009 Hate Crimes
7,789 Hate Crimes Nationally

| <i>Rank</i> | <i>State</i> | <i>Violent Crimes</i> | <i>% of USA</i> |
|-------------|----------------------|-----------------------|-----------------|
| 1 | California | 1,285 | 16.5% |
| 2 | New York | 648 | 8.3% |
| 3 | New Jersey | 549 | 7.0% |
| 4 | Michigan | 409 | 5.3% |
| 5 | Massachusetts | 382 | 4.9% |
| 6 | Ohio | 342 | 4.4% |
| 7 | Arizona | 274 | 3.5% |
| 8 | Washington | 272 | 3.5% |
| 9 | Colorado | 269 | 3.5% |
| 10 | Connecticut | 222 | 2.9% |
| 11 | Minnesota | 189 | 2.4% |
| 12 | Tennessee | 185 | 2.4% |
| 12 | Texas | 185 | 2.4% |
| 14 | Illinois* | 178 | 2.3% |
| 15 | Kentucky | 176 | 2.3% |
| 16 | Virginia | 170 | 2.2% |
| 17 | Missouri | 167 | 2.1% |
| 17 | Oregon | 167 | 2.1% |
| 19 | Florida | 147 | 1.9% |
| 20 | South Carolina | 146 | 1.9% |
| 21 | Kansas | 143 | 1.8% |
| 22 | North Carolina | 125 | 1.6% |
| 23 | Maryland | 107 | 1.4% |
| 24 | Arkansas | 85 | 1.1% |
| 25 | Nebraska | 82 | 1.1% |
| 26 | Indiana | 68 | 0.9% |
| 26 | Oklahoma | 68 | 0.9% |
| 28 | Nevada | 64 | 0.8% |
| 29 | Wisconsin | 61 | 0.8% |
| 30 | South Dakota | 58 | 0.7% |
| 31 | Maine | 56 | 0.7% |
| 32 | Utah | 54 | 0.7% |
| 33 | Pennsylvania | 53 | 0.7% |
| 34 | Delaware | 44 | 0.6% |
| 35 | Idaho | 42 | 0.5% |
| 36 | Rhode Island | 38 | 0.5% |
| 37 | Montana | 31 | 0.4% |
| 38 | Vermont | 28 | 0.4% |
| 39 | New Hampshire | 27 | 0.3% |
| 39 | West Virginia | 27 | 0.3% |
| 41 | Louisiana | 21 | 0.3% |
| 42 | Iowa | 19 | 0.2% |
| 43 | New Mexico | 18 | 0.2% |
| 44 | Wyoming | 17 | 0.2% |
| 45 | North Dakota | 14 | 0.2% |
| 46 | Alaska | 12 | 0.2% |
| 46 | Georgia | 12 | 0.2% |
| 48 | Alabama | 10 | 0.1% |
| 49 | Mississippi | 2 | 0.0% |
| NA | Hawaii | NA | NA |
| | District of Columbia | 41 | 0.5% |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Hate Crime Statistics, 2009, *in* Crime State Rankings 2011: Crime Across America 518 (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

2009 Hate Crimes per 100,000 Population
2.8 Violent Crimes per 100,000 Population Nationally

| <i>Rank</i> | <i>State</i> | <i>Rate</i> |
|-------------|----------------------|-------------|
| 1 | South Dakota | 8.0 |
| 2 | Minnesota | 7.4 |
| 3 | Oregon | 7.0 |
| 4 | Kansas | 6.5 |
| 5 | Connecticut | 6.3 |
| 5 | New Jersey | 6.3 |
| 7 | Massachusetts | 6.0 |
| 8 | Kentucky | 5.5 |
| 9 | Colorado | 5.4 |
| 9 | Nebraska | 5.4 |
| 11 | Delaware | 5.0 |
| 12 | Vermont | 4.6 |
| 13 | Arizona | 4.2 |
| 13 | Maine | 4.2 |
| 13 | Michigan | 4.2 |
| 16 | Alaska | 4.1 |
| 16 | Washington | 4.1 |
| 18 | Ohio | 3.6 |
| 18 | Rhode Island | 3.6 |
| 20 | California | 3.5 |
| 20 | New York | 3.5 |
| 22 | Montana | 3.2 |
| 22 | South Carolina | 3.2 |
| 22 | Wyoming | 3.2 |
| 25 | Arkansas | 3.1 |
| 26 | Tennessee | 2.9 |
| 27 | Missouri | 2.8 |
| 27 | Nevada | 2.8 |
| 29 | Idaho | 2.7 |
| 30 | New Hampshire | 2.3 |
| 30 | North Dakota | 2.3 |
| 32 | Virginia | 2.2 |
| 33 | Illinois* | 2.1 |
| 34 | Utah | 2.0 |
| 35 | Maryland | 1.9 |
| 36 | Indiana | 1.8 |
| 36 | Oklahoma | 1.8 |
| 38 | New Mexico | 1.6 |
| 38 | West Virginia | 1.6 |
| 40 | North Carolina | 1.3 |
| 41 | Wisconsin | 1.1 |
| 42 | Florida | 0.8 |
| 42 | Louisiana | 0.8 |
| 44 | Texas | 0.7 |
| 45 | Iowa | 0.6 |
| 46 | Pennsylvania | 0.4 |
| 47 | Alabama | 0.3 |
| 48 | Georgia | 0.2 |
| 48 | Mississippi | 0.2 |
| NA | Hawaii | NA |
| | District of Columbia | 6.8 |

Source: Fed. Bureau of Investigation, U.S. Dep't of Justice, Hate Crime Statistics, 2009, *in* Crime State Rankings 2011: Crime Across America 519 (Kathleen O. Morgan et al. eds., 2011).

*Illinois statistic reflects only Chicago and Rockford.

2011 Population
National Total = 311,591,917

| <i>Rank</i> | <i>State</i> | <i>Population</i> | <i>% of USA</i> |
|-------------|----------------------|-------------------|-----------------|
| 1 | California | 37,691,912 | 11.9% |
| 2 | Texas | 25,674,681 | 8.0% |
| 3 | New York | 19,465,197 | 6.2% |
| 4 | Florida | 19,057,542 | 6.0% |
| 5 | Illinois | 12,869,257 | 4.1% |
| 6 | Pennsylvania | 12,742,886 | 4.1% |
| 7 | Ohio | 11,544,951 | 3.7% |
| 8 | Michigan | 9,876,187 | 3.2% |
| 9 | Georgia | 9,815,210 | 3.1% |
| 10 | North Carolina | 9,656,401 | 3.1% |
| 11 | New Jersey | 8,821,155 | 2.8% |
| 12 | Virginia | 8,096,604 | 2.6% |
| 13 | Washington | 6,830,038 | 2.2% |
| 14 | Massachusetts | 6,587,536 | 2.0% |
| 15 | Indiana | 6,516,922 | 2.1% |
| 16 | Arizona | 6,482,505 | 2.0% |
| 17 | Tennessee | 6,403,353 | 2.0% |
| 18 | Missouri | 6,010,688 | 1.9% |
| 19 | Maryland | 5,828,289 | 1.9% |
| 20 | Wisconsin | 5,711,767 | 1.8% |
| 21 | Minnesota | 5,344,861 | 1.7% |
| 22 | Colorado | 5,116,769 | 1.6% |
| 23 | Alabama | 4,802,740 | 1.5% |
| 24 | South Carolina | 4,679,230 | 1.5% |
| 25 | Louisiana | 4,574,836 | 1.5% |
| 26 | Kentucky | 4,369,356 | 1.4% |
| 27 | Oregon | 3,871,859 | 1.2% |
| 28 | Oklahoma | 3,791,508 | 1.2% |
| 29 | Connecticut | 3,580,709 | 1.1% |
| 30 | Iowa | 3,062,309 | 1.0% |
| 31 | Mississippi | 2,978,512 | 1.0% |
| 32 | Arkansas | 2,937,979 | 0.9% |
| 33 | Kansas | 2,871,238 | 0.9% |
| 34 | Utah | 2,817,222 | 0.9% |
| 35 | Nevada | 2,723,322 | 0.9% |
| 36 | New Mexico | 2,082,224 | 0.7% |
| 37 | West Virginia | 1,855,364 | 0.6% |
| 38 | Nebraska | 1,842,641 | 0.6% |
| 39 | Idaho | 1,584,985 | 0.5% |
| 40 | Hawaii | 1,374,810 | 0.4% |
| 41 | Maine | 1,328,188 | 0.4% |
| 42 | New Hampshire | 1,318,194 | 0.4% |
| 43 | Rhode Island | 1,051,302 | 0.3% |
| 44 | Montana | 998,199 | 0.3% |
| 45 | Delaware | 907,135 | 0.3% |
| 46 | South Dakota | 824,082 | 0.3% |
| 47 | Alaska | 722,718 | 0.2% |
| 48 | North Dakota | 683,932 | 0.2% |
| 49 | Vermont | 626,431 | 0.2% |
| 50 | Wyoming | 568,158 | 0.2% |
| | District of Columbia | 617,996 | 0.2% |

Source: 2011 Population Estimates, U.S. Census Bureau, <http://www.census.gov/popest/index.html>, Updated from Crime State Rankings 2011: Crime Across America 529 (Kathleen O. Morgan et al. eds., 2011)

13

International Law

*This is online Chapter 13 of the law school casebook *Firearms Law and the Second Amendment: Regulation, Rights, and Policy*, by Nicholas J. Johnson, David B. Kopel, George A. Mocsary, and Michael P. O’Shea. The printed book, consisting of Chapters 1 through 11, is available at the [website of Aspen Publishers](#). The printed book is also available from [Amazon.com](#) and [Barnes & Noble \(bn.com\)](#). The [public website for this casebook](#) contains the four online chapters (Chapters 12 through 15), plus podcasts on each chapter, resources for student research papers, and more.*

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This online chapter covers international law principles and documents involving self-defense and firearms control. International law traditionally dealt with relations between nations but has expanded to cover interactions between states and individuals.

A *treaty* is a common type of bilateral agreement between nations. When an international agreement involves many parties, the agreement is typically called a *convention*. The general rules of treaties and conventions are codified in the Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331.

Customary international law emerges from the behavior of nations. When nations consider a custom to be legally binding, then the custom can be said to be part of international law. The classic example of customary international law is ambassadorial immunity. Long before there were any treaties about how ambassadors should be treated, nations considered themselves to be legally obliged not to criminally prosecute ambassadors from foreign countries.

Closely related to customary international law are *norms*. One definition of a *norm* is an internationally accepted standard of conduct, even if that standard has not yet become a well-established custom. Ordinary customary law can always be changed; for example, a new convention might change the rules for

ambassadorial immunity. However, certain norms, called *peremptory norms*, are said to be always and everywhere binding, and unchangeable. As Section B discusses, the Classical Founders of international law described Natural Law in similar terms. Since the late twentieth century, international policy entrepreneurs (discussed in Section D) have been busy trying to argue that their favorite policy on this or that subject is a peremptory norm of international law.

Mere custom is *not* in itself sufficient to create customary international law; the custom must be accompanied by *opinio juris sive necessitatis* (“an opinion of law or necessity,” commonly shortened to *opinio juris*). In other words, a nation must be adhering to the custom because the nation believes that it is legally required to do so.

Another source of international law is the set of general principles common to the domestic law of many nations. General principles of international law may be drawn from standards that are common to the major legal systems of the world.

International organizations play an important role in the development of international law. The United Nations is the most prominent international organization, but there are many others. The United Nations Charter establishes the International Court of Justice (a/k/a “the World Court”) as the organization’s primary judicial mechanism.

Section 38(1) of the Statute of the International Court of Justice ([I.C.J. Statute](#)) provides a standard definition of the sources of international law: (a) international conventions; (b) customary international law; (c) “the general principles of law recognized by civilized nations”; and (d) “judicial decisions and the teachings of the most highly qualified publicists [legal scholars] of the various nations, as subsidiary means for the determination of rules of law.” So items (a), (b), and (c) are considered *formal sources*, while (d) lists *subsidiary sources*.

This chapter is separated into four main sections. Section A addresses modern international law conventions, with a focus on the United Nations and the Organization of American States. Section B covers Classical international law, based on the treatises of scholars such as Grotius, Pufendorf, and Vattel, who helped found the global system of international law in the sixteenth through eighteenth centuries. Section C discusses the right of resistance under international law, especially resistance to genocide. Section D offers the perspective of Harold Koh, former Legal Adviser to the U.S. State Department, on how and why international gun control should be implemented.

A. *Modern Treaties and the United Nations*

1. **Modern Human Rights Conventions and Other Documents**

a. *Universal Declaration of Human Rights*

The Universal Declaration of Human Rights, adopted by the United Nations in 1948, is not a binding legal treaty or convention, but rather a statement of principles. However, some nations have explicitly adopted it into their own constitutional law. In addition, some consider the Universal Declaration a source of customary international law norms. The Preamble recognizes a right to resist tyranny:

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law. . . .

b. Resolution on the Definition of Aggression

The U.N. General Assembly (GA) has no ability to create international law. While no GA resolution is, in and of itself, law, a GA resolution may sometimes be considered a persuasive source of international norms. The 1974 GA Resolution on the Definition of Aggression seems to recognize a right to fight for self-determination, freedom, and independence:

Nothing in this definition . . . could in any way prejudice the right to self-determination, freedom and independence . . . particularly peoples under colonial and racist regimes or other forms of alien domination; nor the right of these peoples to struggle to that end and to seek and receive support.

Resolution on the Definition of Aggression, G.A. Res. 3314 (XXIX), Annex, art. 7 (Dec. 14, 1974).

c. African Charter on Human and Peoples' Rights

1. All peoples . . . have the unquestionable and inalienable right to self-determination. . . .

2. Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.

3. All peoples shall have the right to the assistance of the States Parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

African Charter on Human and Peoples' Rights (entered into force 1986), art. 20, f.

d. European Convention on Human Rights (ECHR)

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

European Convention on Human Rights art. 2, Nov. 4, 1950, 213 U.N.T.S. 222.

NOTES & QUESTIONS

1. According to the Resolution on the Definition of Aggression, is the right to resist limited to persons fighting colonial, racist, or alien regimes?
2. According to the ECHR, under what circumstances is use of lethal force in self-defense permissible?
3. If a government prohibited self-defense against deadly attack, would it be violating the right to life in Article 1 of the ECHR?
4. In a report adopted by the U.N. Subcommission on Human Rights, U.N. Special Rapporteur Barbara Frey wrote that under the ECHR, “[s]elf-defence is more properly characterized as a means of protecting the right to life and, as such, a basis for avoiding responsibility for violating the rights of another.” Based on the text of the ECHR, has a person who kills in self-defense (or while lawfully quelling a riot or insurrection) violated the rights of another person?
5. Several international human rights conventions guarantee a right to life, a right to personal security, or a right to property.

[American Convention on Human Rights \(1969\):](#)

- art. 5(1): “Every person has the right to have his physical, mental, and moral integrity respected.”
- art. 7(1): “Every person has the right to personal liberty and security.”
- art. 21(1): “Everyone has the right to the use and enjoyment of his property. The law may subordinate such use and enjoyment to the interest of society.”

[European Convention on Human Rights \(1953\):](#)

- art. 3: “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”
- art. 5(1): “Everyone has the right to liberty and security of person.”

[Universal Declaration on Human Rights \(1948\):](#)

- art. 3: “Everyone has the right to life, liberty and security of person.”
- art. 17(1): “Everyone has the right to own property alone as well as in association with others.”
- art. 17(2): “No one shall be arbitrarily deprived of his property.”

[International Covenant on Civil and Political Rights \(1976\):](#)

- art. 7: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”
- art. 9(1): “Everyone has the right to liberty and security of person.”

Would any of these conventions be violated if a government outlawed forcible self-defense against murderers, rapists, torturers, robbers, or other violent criminals?

6. If a convention guarantees the right to food, or the right to an education, can the government properly outlaw the private cultivation of food, or private tutoring? What if the government supplies everyone with plenty of food and excellent education? What if the government aspires to supply sufficient food and education, but is unable to do so? Can these situations be analogized to the right to life, property, and security, and the prohibition of self-defense?
7. Do you think the “tyranny” mentioned in the Universal Declaration of Human Rights would encompass the tyranny that Americans claimed to be resisting in the Revolutionary War against England? (You may wish to review Chapter 3.C – 3.D.) Did late eighteenth-century English policies toward the American colonies violate human rights? Which ones? Do you think “tyranny” envisioned by the Declaration of Human Rights is the same concept as the tyranny that was denounced in the U.S. Declaration of Independence?
8. Does the African Charter on Human and Peoples’ Rights require some sort of international permission to revolt when it says that oppressed peoples have a right to resort only “to . . . means recognized by the international community”?

2. Modern International Gun Control Treaties and Documents

The [Programme of Action](#) (PoA) excerpted below was adopted in 2001 at a U.N. conference. It is not legally binding. Since then, there have been meetings every two or three years to assess progress on the PoA. The efforts of some nations and many gun-control organizations to strengthen the PoA at a 2006 conference were defeated because of opposition from the United States and several other nations. The essential provisions of the PoA appear in the excerpt below.

Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects UN Document A/CONF.192/15

I. Preamble

1. We, the States participating in the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, having met in New York from 9 to 20 July 2001,

2. Gravely concerned about the illicit manufacture, transfer and circulation of small arms and light weapons and their excessive accumulation and uncontrolled spread in many regions of the world, which have a wide range of humanitarian and socio-economic consequences and pose a serious threat to

peace, reconciliation, safety, security, stability and sustainable development at the individual, local, national, regional and international levels, . . .

5. Recognizing that the illicit trade in small arms and light weapons in all its aspects sustains conflicts, exacerbates violence, contributes to the displacement of civilians, undermines respect for international humanitarian law, impedes the provision of humanitarian assistance to victims of armed conflict and fuels crime and terrorism,

6. [Gravely concerned about children, child soldiers, women, and the elderly,]

7. [Concerned about terrorism, organized crime, drug trafficking, and precious minerals trafficking; and agreeing on the need to combat both the supply and the demand for illicit small arms,]

8. Reaffirming our respect for and commitment to international law and the purposes and principles enshrined in the Charter of the United Nations, including the sovereign equality of States, territorial integrity, the peaceful resolution of international disputes, non-intervention and non-interference in the internal affairs of States,

9. Reaffirming the inherent right to individual or collective self-defence in accordance with Article 51 of the Charter of the United Nations,¹

10. Reaffirming also the right of each State to manufacture, import and retain small arms and light weapons for its self-defence and security needs, as well as for its capacity to participate in peacekeeping operations in accordance with the Charter of the United Nations,

11. Reaffirming the right of self-determination of all peoples, taking into account the particular situation of peoples under colonial or other forms of alien domination or foreign occupation, and recognizing the right of peoples to take legitimate action in accordance with the Charter of the United Nations to realize their inalienable right of self-determination. This shall not be construed as authorizing or encouraging any action that would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples,

12. Recalling the obligations of States to fully comply with arms embargoes decided by the United Nations Security Council in accordance with the Charter of the United Nations, . . .

16. Recognizing also the important contribution of civil society, including non-governmental organizations and industry in, inter alia, assisting Governments to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects, . . .

1. [Article 51 of the U.N. Charter (adopted 1945) reads:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

—Eds.]

22. Resolve therefore to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects by:

(a) Strengthening or developing agreed norms and measures at the global, regional and national levels that would reinforce and further coordinate efforts to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects;

(b) Developing and implementing agreed international measures to prevent, combat and eradicate illicit manufacturing of and trafficking in small arms and light weapons;

(c) Placing particular emphasis on the regions of the world where conflicts come to an end and where serious problems with the excessive and destabilizing accumulation of small arms and light weapons have to be dealt with urgently;

(d) Mobilizing the political will throughout the international community to prevent and combat illicit transfers and manufacturing of small arms and light weapons in all their aspects, to cooperate towards these ends and to raise awareness of the character and seriousness of the inter-related problems associated with the illicit manufacturing of and trafficking in these weapons;

(e) Promoting responsible action by States with a view to preventing the illicit export, import, transit and retransfer of small arms and light weapons.

II. Preventing, combating and eradicating the illicit trade in small arms and light weapons in all its aspects

1. [We, the States participating in this Conference, agree:]

At the national level

2. To put in place, where they do not exist, adequate laws, regulations and administrative procedures to exercise effective control over the production of small arms and light weapons within their areas of jurisdiction and over the export, import, transit or retransfer of such weapons, in order to prevent illegal manufacture of and illicit trafficking in small arms and light weapons, or their diversion to unauthorized recipients.

3. To adopt and implement, in the States that have not already done so, the necessary legislative or other measures to establish as criminal offences under their domestic law the illegal manufacture, possession, stockpiling and trade of small arms and light weapons within their areas of jurisdiction, in order to ensure that those engaged in such activities can be prosecuted under appropriate national penal codes.

4. To establish, or designate as appropriate, national coordination agencies or bodies and institutional infrastructure responsible for policy guidance, research and monitoring of efforts to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects. This should include aspects of the illicit manufacture, control, trafficking, circulation, brokering and trade, as well as tracing, finance, collection and destruction of small arms and light weapons.

5. [To establish a national point of contact to act as liaison on the Programme of Action.]

6. To identify, where applicable, groups and individuals engaged in the illegal manufacture, trade, stockpiling, transfer, possession, as well as financing for acquisition, of illicit small arms and light weapons, and take action under appropriate national law against such groups and individuals.

7. To ensure that henceforth licensed manufacturers apply an appropriate and reliable marking on each small arm and light weapon as an integral part of the production process. This marking should be unique and should identify the country of manufacture and also provide information that enables the national authorities of that country to identify the manufacturer and serial number so that the authorities concerned can identify and trace each weapon.²

8. To adopt where they do not exist and enforce, all the necessary measures to prevent the manufacture, stockpiling, transfer and possession of any unmarked or inadequately marked small arms and light weapons.

9. To ensure that comprehensive and accurate records are kept for as long as possible on the manufacture, holding and transfer of small arms and light weapons under their jurisdiction. These records should be organized and maintained in such a way as to ensure that accurate information can be promptly retrieved and collated by competent national authorities.

10. To ensure responsibility for all small arms and light weapons held and issued by the State and effective measures for tracing such weapons.

11. [To have strict regulations for export and import authorizations.]

12. To put in place and implement adequate laws, regulations and administrative procedures to ensure the effective control over the export and transit of small arms and light weapons, including the use of authenticated end-user certificates and effective legal and enforcement measures. . . .

14. To develop adequate national legislation or administrative procedures regulating the activities of those who engage in small arms and light weapons brokering. This legislation or procedures should include measures such as registration of brokers, licensing or authorization of brokering transactions as well as the appropriate penalties for all illicit brokering activities performed within the State's jurisdiction and control.

15. [To take action against any violations of U.N. arms embargoes.]

16. To ensure that all confiscated, seized or collected small arms and light weapons are destroyed, subject to any legal constraints associated with the preparation of criminal prosecutions, unless another form of disposition or use has been officially authorized and provided that such weapons have been duly marked and registered.

17. To ensure, subject to the respective constitutional and legal systems of States, that the armed forces, police or any other body authorized to hold small arms and light weapons establish adequate and detailed standards and procedures relating to the management and security of their stocks of these weapons. These standards and procedures should, inter alia, relate to: appropriate locations for stockpiles; physical security measures; control of access to

2. [Carried into action by the nonbinding 2005 International Tracing Instrument, described on page 208—Eds.]

stocks; inventory management and accounting control; staff training; security, accounting and control of small arms and light weapons held or transported by operational units or authorized personnel; and procedures and sanctions in the event of thefts or loss.

18. To regularly review, as appropriate, subject to the respective constitutional and legal systems of States, the stocks of small arms and light weapons held by armed forces, police and other authorized bodies and to ensure that such stocks declared by competent national authorities to be surplus to requirements are clearly identified, that programmes for the responsible disposal, preferably through destruction, of such stocks are established and implemented and that such stocks are adequately safeguarded until disposal.

19. To destroy surplus small arms and light weapons designated for destruction, taking into account, inter alia, the report of the Secretary-General of the United Nations on methods of destruction of small arms, light weapons, ammunition and explosives (S/2000/1092) of 15 November 2000.

20. [To implement public awareness programs, such as] the public destruction of surplus weapons and the voluntary surrender of small arms and light weapons, if possible, in cooperation with civil society and non-governmental organizations, with a view to eradicating the illicit trade in small arms and light weapons.

21. To develop and implement, where possible, effective disarmament, demobilization and reintegration programmes, including the effective collection, control, storage and destruction of small arms and light weapons, particularly in post-conflict situations, unless another form of disposition or use has been duly authorized and such weapons have been marked and the alternate form of disposition or use has been recorded, and to include, where applicable, specific provisions for these programmes in peace agreements. . . .

23. To make public national laws, regulations and procedures that impact on the prevention, combating and eradicating of the illicit trade in small arms and light weapons in all its aspects and to submit, on a voluntary basis, to relevant regional and international organizations and in accordance with their national practices, information on, inter alia, (a) small arms and light weapons confiscated or destroyed within their jurisdiction; and (b) other relevant information such as illicit trade routes and techniques of acquisition that can contribute to the eradication of the illicit trade in small arms and light weapons in all its aspects.

At the regional level

24. [To establish a regional liaison.]

25. To encourage negotiations, where appropriate, with the aim of concluding relevant legally binding instruments aimed at preventing, combating and eradicating the illicit trade in small arms and light weapons in all its aspects, and where they do exist to ratify and fully implement them.

26. [To encourage moratoria on the transfer and manufacture of small arms and light weapons.]

27. [To establish trans-border customs cooperation and networks for information-sharing among law enforcement.]

28. [To encourage strengthening relevant laws, regulations, and administrative procedures.]

29. [To improve stockpile management, in particular physical security measures, for small arms and light weapons.]

30. To support, where appropriate, national disarmament, demobilization and reintegration programmes, particularly in post-conflict situations, with special reference to the measures agreed upon in paragraphs 28 to 31 of this section.

31. [To encourage transparency with a view to combating the illicit trade in small arms and light weapons in all its aspects.]

At the global level

32. [To cooperate with the U.N. arms embargoes.]

33. [To request that the U.N. Department for Disarmament Affairs collate and circulate data and information provided by States.]

34. To encourage, particularly in post-conflict situations, the disarmament and demobilization of ex-combatants and their subsequent reintegration into civilian life, including providing support for the effective disposition, as stipulated in paragraph 17 of this section, of collected small arms and light weapons. . . .

36. To strengthen the ability of States to cooperate in identifying and tracing in a timely and reliable manner illicit small arms and light weapons.

37. To encourage States and the World Customs Organization, as well as other relevant organizations, to enhance cooperation with the International Criminal Police Organization (Interpol) to identify those groups and individuals engaged in the illicit trade in small arms and light weapons in all its aspects in order to allow national authorities to proceed against them in accordance with their national laws.

38. To encourage States to consider ratifying or acceding to international legal instruments against terrorism and transnational organized crime.

39. To develop common understandings of the basic issues and the scope of the problems related to illicit brokering. . . .

40. To encourage . . . international . . . organizations and States to facilitate the appropriate cooperation of civil society, including non-governmental organizations, in activities related to the prevention, combat and eradication of the illicit trade in small arms. . . .

41. To promote dialogue and a culture of peace by encouraging, as appropriate, education and public awareness programmes. . . .

III. Implementation, international cooperation and assistance . . .

6. [States should help each other in building capacities legislation and regulations, law enforcement, tracing and marking, stockpile management and security, destruction of small arms and light weapons and the collection and exchange of information.]

7. [States should enhance cooperation among customs, police, intelligence and arms control officials.]

8. Regional and international programmes for specialist training on small arms stockpile management and security should be developed. Upon

request, States and appropriate international or regional organizations in a position to do so should support these programmes. The United Nations, within existing resources, and other appropriate international or regional organizations should consider developing capacity for training in this area.

9. [States should use and support Interpol’s International Weapons and Explosives Tracking System database or any other relevant database that may be developed for this purpose.]

10. [States should cooperate on improved technology for arms tracing and detection of illicit trade.]

11. [States will cooperate in arms tracing, and exchanging relevant information. . . .]

13. States are encouraged, subject to their national practices, to enhance, according to their respective constitutional and legal systems, mutual legal assistance and other forms of cooperation in order to assist investigations and prosecutions in relation to the illicit trade in small arms and light weapons in all its aspects.

14. [States should assist each other in destroying surplus arms, and unmarked or inadequately marked arms.]

15. [States should assist other States in combating the illicit trade in arms linked to drug trafficking, transnational organized crime and terrorism. . . .]

18. States, regional and subregional and international organizations, research centres, health and medical institutions, the United Nations system, international financial institutions and civil society are urged, as appropriate, to develop and support action-oriented research aimed at facilitating greater awareness and better understanding of the nature and scope of the problems associated with the illicit trade in small arms and light weapons in all its aspects.

IV. Follow-up to the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects . . .

2. Finally, we, the States participating in the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects:

(a) Encourage the United Nations and other appropriate international and regional organizations to undertake initiatives to promote the implementation of the Programme of Action;

(b) Also encourage all initiatives to mobilize resources and expertise to promote the implementation of the Programme of Action and to provide assistance to States in their implementation of the Programme of Action;

(c) Further encourage non-governmental organizations and civil society to engage, as appropriate, in all aspects of international, regional, subregional and national efforts to implement the present Programme of Action.

NOTES & QUESTIONS

1. It is no mistake that the PoA never defines “small arms.” The issue was deliberately left open. Some advocates argue that “small arms” should mean only military automatic weapons (such as the AK-47 or M-16 rifles).

Others define the term more broadly, to include any military firearms (such as the pistol that an officer would wear as a sidearm), but not to include firearms that are rarely used by the military (e.g., almost all shotguns). Still others say that the term should include any firearm. As the PoA has been actually implemented since 2001 by the United Nations, and by any government that has cited the PoA as a justification for acting, the overwhelming approach has been to treat “small arms” as encompassing all firearms.

If the U.N. finally decided that the PoA should define “small arms” and chose you to prepare the definition, what would you write?

2. Would it make sense for the PoA to apply to “small arms” in the broadest sense to any arms that are as small as a firearm, or smaller? Should this include knives, swords, bows, blunt weapons, chemical sprays, martial arts weapons, and the like?
3. One result of the PoA was negotiations to set international standards for the marking of firearms. The negotiations led to the General Assembly’s adoption of the *International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons*, A/60/88 (Dec. 8, 2005). The agreement, commonly known as the International Tracing Instrument, is not legally binding. It defines small arms this way:

For the purposes of this instrument, “small arms and light weapons” will mean any man-portable lethal weapon that expels or launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet or projectile by the action of an explosive, excluding antique small arms and light weapons or their replicas. Antique small arms and light weapons and their replicas will be defined in accordance with domestic law. In no case will antique small arms and light weapons include those manufactured after 1899:

- (a) “Small arms” are, broadly speaking, weapons designed for individual use. They include, inter alia, revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns

International Tracing Instrument, ¶ 4, U.N. Doc. A/60/88 (Dec. 8, 2005).

Are you satisfied with the Instrument’s definition of small arms?

The Instrument’s core rules for marking are contained in paragraph 8(a). The general requirement is for a “unique marking providing the name of the manufacturer, the country of manufacture and the serial number.”

However, in the late-night negotiating session that created the final version of the Instrument, the Chinese delegation inserted an alternative provision, whose implications were apparently not understood by the other, tired delegates. Instead of country/manufacturer/serial number, a marking can be merely “simple geometric symbols in combination with a numeric and/or alphanumeric code, permitting ready identification by all States of the country of manufacture.” *Id.*

The practical effect of this has been that China has often used geometric markings on guns. China may continue to do so, and may therefore *omit* the identity of the manufacturer. China may likewise omit a serial number, which could be used to identify the approximate date of manufacture of a gun.

Various firearms manufacturers in China have enjoyed a thriving business supplying guns to African warlords, dictators, terrorists, and other bad actors. The International Tracing Instrument allows the continuation of this practice by providing plausible deniability. Chinese-made guns found in the possession of a warlord cannot be traced to any particular manufacturer. Even for guns traced to China, the absence of a serial number prevents any dating of the gun. This makes it much harder to prove whether a gun was sold to an African government decades earlier, and has leaked into civilian hands, or whether it was recently manufactured for a rogue arms broker whose prime customers are warlords.

In light of this risk, what legitimate reasons might there be for the International Tracing Instrument’s geometric alternative?

4. “Small arms” definitely does not include ammunition for small arms. Whether to include ammunition in global gun control treaties has been a very contentious issue and was a point of contention at the 2006 and 2012 U.N. conferences discussed below. Would you recommend including ammunition in the definition of small arms? What are the benefits, harms, and practical challenges that affect your recommendation?

5. The PoA calls for comprehensive, permanent registration of all small arms:

To ensure that comprehensive and accurate records are kept for as long as possible on the manufacture, holding and transfer of small arms and light weapons under their jurisdiction. These records should be organized and maintained in such a way as to ensure that accurate information can be promptly retrieved and collated by competent national authorities.

Other provisions of the PoA urge the sharing of registration with other nations, and with regional organizations. What are the advantages and disadvantages of internationalizing gun registration?

6. The PoA affirms “the inherent right to individual or collective self-defense in accordance with Article 51” of the United Nations Charter:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

U.N. Charter art. 51. In the context of article 51 (which controls international use of force), the “inherent right” of self-defense is a right of nations.

As Section B of this chapter details, however, the Classical view of international law is that the inherent right of national self-defense is derivative of the personal right of self-defense. The PoA refers to the lawfulness, in some countries, of arms use for sporting purposes, but does not acknowledge the existence of any right of personal self-defense. Why do you think the PoA was careful to mention national self-defense, but not personal self-defense?

7. If you were a gun owner or gun rights supporter in the United States, would you object to the U.S. government's endorsing the PoA? Why? Do you interpret the PoA to require citizen disarmament in places like the United States where a large fraction of citizens own guns? Which provisions of the PoA could be used to oppose this reading? As you read it, would a significant portion of the U.S. gun inventory fall within any of the categories of guns targeted by the PoA?
8. The PoA seems to express a preference for state control of small arms. Is this preference sound? Some commentators have argued that organized state violence is a greater problem, and has claimed far more lives, than individual violence such as gun crime. *See, e.g.,* Don B. Kates, *Genocide, Self Defense and the Right to Arms*, 29 Hamline L. Rev. 501 (2006). Does that affect your assessment of whether government should have a monopoly on arms? Is the distinction between state and individual violence compelling? *See* Chapter 11.K. Is the PoA even concerned with the type of private gun violence that prompts U.S. gun regulation?
9. An important phrase that did not appear in the final version of the PoA is "nonstate actors." As originally drafted, the PoA would have forbidden all arms transfer to nonstate actors (that is, to any recipient who is not a government, or authorized by the government). The U.S. delegation, led by John Bolton, insisted on deletion of the "non-state actors" language. The United States argued that such a provision would have outlawed arms sales to the American Revolutionaries (who at the start of the war did not have diplomatic recognition), to anti-Nazi partisans during World War II, and to rebel groups that are attempting to overthrow a dictatorship. It has also been argued that a nonstate actors provision would outlaw U.S. arms sales to Taiwan, since the U.N. asserts that Taiwan is merely a province of China. *See* Ted R. Bromund & Dean Cheng, [Arms Trade Treaty Could Jeopardize U.S. Ability to Provide for Taiwan's Defense](#) (Heritage Found. June 8, 2012). For an overview of the issue, see David B. Kopel, Paul Gallant, & Joanne D. Eisen, *Firearms Possession by "Non-State Actors": the Question of Sovereignty*, 8 Tex. Rev. L. & Pol. 373 (2004). What are the best arguments for and against outlawing arms transfers to nonstate actors?
10. Because the PoA is not legally binding, it did little to strengthen U.N. arms embargoes. Subsequent U.N. conferences in 2006 and 2012 (discussed in Question 12) were called in part for the purpose of strengthening the embargo system, but neither conference produced a consensus document.

Embargo advocates conceded that an arms embargo has never been successful in the history of the United Nations. Advocates point to two major problems. First, only the Security Council has the legal authority to impose an embargo. But each of the five permanent members of the Security Council has veto power. So the permanent members can and do block efforts to impose arms embargoes on allies. For example, China would veto any embargo on Zimbabwe, and the United States would do the same for Israel.

Accordingly, advocates favor creating a new U.N. agency or office that would have the power to impose embargoes, and would do so according to “objective” standards.

A second problem is that many countries that have nominally agreed to an embargo then violate the embargo. Opponents of the proposed new treaties argue that countries such as Iran and China have shown that they will continue to supply arms to terrorists or to governments that violate human rights, regardless of what promises are made in a treaty. Thus, critics argue, a new international treaty would in practice only limit arms supplying by the relatively small number of democracies who generally comply with international law.

Issues involving embargoes are explored in David B. Kopel, Paul Gallant, & Joanne D. Eisen, *The Arms Trade Treaty: Zimbabwe, the Democratic Republic of the Congo, and the Prospects for Arms Embargoes on Human Rights Violators*, 114 Penn St. L. Rev. 891 (2010) (describing, *inter alia*, the South African government’s violation of South African law in order to facilitate Chinese arms shipments to the Mugabe dictatorship in Zimbabwe).

Is there any practical way to block arms flows to dictatorships that use arms to perpetrate gross violations of human rights? If not, what else might be done?

11. The 2001 PoA is not legally binding. However, many national governments have intensified domestic gun controls since 2001, claiming that the PoA requires it. Invoking the PoA, the United Nations has also carried out many programs to disarm civilians. For examination of U.N. disarmament programs in Cambodia, Bougainville, Albania, Panama, Guatemala, and Mali, see David B. Kopel, Paul Gallant, & Joanne D. Eisen, *Microdisarmament: The Consequences for Public Safety and Human Rights*, 73 UMKC L. Rev. 969 (2005). “Microdisarmament” is the U.N.’s term for effectuating disarmament in a single nation. Some microdisarmament programs involve efforts to reintegrate former guerillas or gangsters into peaceful civilian life. Others involve broad efforts to collect guns from the entire civilian population. Can you imagine circumstances in which the U.N. should not implement microdisarmament in a nation where the government desires it?

12. After years of efforts, the United Nations General Assembly approved an Arms Trade Treaty (ATT) on April 3, 2013. Advocates of the ATT credited President Barack Obama as being decisive in adoption, since the George W. Bush administration had opposed such a Treaty. Secretary of State John

Kerry signed the ATT in September 2013. As of mid-2014, President Obama has not sent the ATT to the U.S. Senate for ratification.

The ATT will take effect on Dec. 24, 2014, after having been ratified by at least 50 nations. The ATT text and information about the ATT's are available at the website of the U.N. Office of Disarmament Affairs, <http://www.un.org/disarmament/ATT>.

The ATT does not recognize the legitimacy of defensive gun ownership. The ATT preamble declares the ATT to be “mindful of” the legitimate use of firearms for “recreational, cultural, historical, and sporting activities, where . . . permitted or protected by law.”

Under the ATT, governments must create a “national control list” of arms and ammunition imports and exports. Governments are “encouraged” to keep information about the “make and model” of the imports, and the “end users.” The national control list is to be delivered to the UN, which is required to make every nation’s gun registration lists available to every other country in the Treaty.

The ATT aims to prohibit the export of arms to persons or governments who would use them to violate human rights.

The Treaty also covers “components” for firearms or ammunition, but does not explicitly cover ammunition per se.

For supportive perspectives on the ATT, see the website of Control Arms, a consortium of NGOs dedicated to the creation of the Treaty, and to making its interpretation and enforcement as stringent as possible. <http://controlarms.org/en>.

For critical perspectives on the ATT, see Heritage Foundation forum “Assessing the Risks of the Arms Trade Treaty,” with presentations from Major General (Ret.) D. Allen Youngman (Defense Small Arms Advisory Council), David B. Kopel (Research Director, Independence Institute, Adjunct Professor, Denver University Sturm College of Law), Johanna Reeves (FireArms Import/Export Roundtable), Ted R. Bromund (Heritage Foundation). See also the many monographs by Heritage Foundation Scholar Ted R. Bromund.

The U.N.’s Human Rights Council has developed a separate proposal for the international regulation of small arms. The first excerpt that follows is from that proposal for preventing human rights violations committed with small arms. The second is from a report by a U.N. official expert (*special rapporteur*) on small arms control, which was formally adopted and endorsed by the HRC. The report states that very restrictive gun control (much more restrictive than currently existing anywhere in the United States) is a human right that all governments have a legal obligation to implement. Keep in mind your impressions of the PoA and your answers to the questions above as you assess the scope and underlying concerns and policy prescriptions in the excerpts below. Consider whether the issues highlighted by the PoA provide persuasive reasons for the U.N.’s continuing work on gun control and whether there are additional persuasive reasons for gun control that could have been included in the PoA.

U.N. Human Rights Council Prevention of Human Rights Violations Committed with Small Arms and Light Weapons

United Nations, A/HRC/Sub.1/58/L.24, Human Rights Council Sub-Commission on the Promotion and Protection of Human Rights Fifty-eighth session, Agenda item 6(d), 2006

Prevention of human rights violations committed with small arms and light weapons. . . .

Reaffirming the importance of the right to life as a fundamental principle of international human rights law, as confirmed in article 3 of the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights and in the jurisprudence of the Human Rights Committee. . . .

1. Urges States to adopt laws and policies regarding the manufacture, possession, transfer and use of small arms that comply with principles of international human rights and international humanitarian law;

2. Also urges States to provide training on the use of firearms by armed forces and law enforcement personnel consistent with basic principles of international human rights and humanitarian law with special attention to the promotion and protection of human rights as a primary duty of all State officials;

3. Further urges States to take effective measures to minimize violence carried out by armed private actors, including using due diligence to prevent small arms from getting into the hands of those who are likely to misuse them; . . .

5. Welcomes the final report of the Special Rapporteur, Barbara Frey, on the prevention of human rights violations committed with small arms and light weapons (A/HRC/Sub.1/58/27), containing the draft principles on the prevention of human rights violations committed with small arms (A/HRC/Sub.1/58/27/Add.1);

6. Endorses the draft principles on the prevention of human rights violations committed with small arms and encourages their application and implementation by States, intergovernmental organizations and other relevant actors.

In 2006, the U.N. Human Rights Council endorsed (*supra*) some draft principles for gun control, as detailed in a report for the Human Rights Council. The report was prepared by University of Minnesota Law Professor Barbara Frey, who was the Council’s Special Rapporteur (official expert) on small arms control.

The Frey Report

U.N. Human Rights Council, Sub-Commission on the Promotion and Protection of Human Rights, Prevention of Human Rights Violations Committed with Small Arms and Light Weapons,

U.N Doc. A/HRC/Sub.1/58/27 (July 27, 2006) (prepared by Barbara Frey)

. . . 4. The human rights policy framework for this entire study is based upon the principle that States must strive to maximize human rights protection

for the greatest number of people, both in their own societies and in the international community. In other words, to meet their obligations under international human rights law, States must enact and enforce laws and policies that provide the most human rights protection for the most people. In regard to small arms violations, this principle—the maximization of human rights protection—means that States have negative responsibilities to prevent violations by State officials and affirmative responsibilities to increase public safety and reduce small arms violence by private actors.

5. Accordingly, States are required to take effective measures to reduce the demand for small arms by ensuring public safety through adequate law enforcement. State officials, including law enforcement officials, serve at the benefit of their communities and are under a duty to protect all persons by promoting the rule of law and preventing illegal acts. . . .

6. To maximize human rights protection, States are also required to take effective measures to minimize private sector violence by enforcing criminal sanctions against persons who use small arms to violate the law and, further, by preventing small arms from getting into the hands of those who are likely to misuse them. Finally, with regard to extraterritorial human rights considerations, States have a duty to prevent the transfer of small arms and light weapons across borders when those weapons are likely to be used to violate human rights or international humanitarian law. . . .

I. INTERNATIONAL HUMAN RIGHTS LAW OBLIGATIONS TO PREVENT SMALL ARMS ABUSES BY NON-STATE ACTORS . . .

9. Under human rights law, States must maximize protection of the right to life. This commitment entails both negative and positive obligations; States officials must refrain from violations committed with small arms and States must take steps to minimize armed violence between private actors. In the next sections, the present report will set forth the legal authority that is the foundation for the positive responsibilities of States—due diligence—to protect the human rights from private sector armed violence. The report then proposes the specific effective measures required under due diligence to maximize human rights protections in the context of that violence.

A. THE DUE DILIGENCE STANDARD IN RELATION TO ABUSES BY PRIVATE ACTORS

10. Under article 2, paragraph 1, of the International Covenant on Civil and Political Rights, States must respect and ensure human rights to all individuals. Ensuring human rights requires positive State action against reasonably foreseeable abuses by private actors. . . .

B. EFFECTIVE MEASURES TO MEET THE DUE DILIGENCE OBLIGATION . . .

16. Minimum effective measures that States should adopt to prevent small arms violence, then, must go beyond mere criminalization of acts of armed

violence. Under the principle of due diligence, it is reasonable for international human rights bodies to require States to enforce a minimum licensing requirement designed to keep small arms and light weapons out of the hands of persons who are likely to misuse them. Recognition of this principle is affirmed in the responses to the questionnaire of the Special Rapporteur on the prevention of human rights violations committed with small arms and light weapons which indicate widespread State practice to license private ownership of small arms and ammunition. The criteria for licensing may vary from State to State, but most licensing procedures consider the following: (a) minimum age of applicant; (b) past criminal record including any history of interfamilial violence; (c) proof of a legitimate purpose for obtaining a weapon; and (d) mental fitness. Other proposed criteria include knowledge of laws related to small arms, proof of training on the proper use of a firearm and proof of proper storage. Licences should be renewed regularly to prevent transfer to unauthorized persons. These licensing criteria are not insurmountable barriers to legitimate civilian possession. There is broad international consensus around the principle that the laws and procedures governing the possession of small arms by civilians should remain the fundamental prerogative of individual States. While regulation of civilian possession of firearms remains a contested issue in public debate — due in large part to the efforts of firearms manufacturers and the United States of America-based pro-gun organizations — there is in fact almost universal consensus on the need for reasonable minimum standards for national legislation to license civilian possession in order to promote public safety and protect human rights. This consensus is a factor to be considered by human rights mechanisms in weighing the affirmative responsibilities of States to prevent core human rights violations in cases involving private sector gun violence.

17. Other effective measures should also be considered by human rights bodies charged with overseeing State action to protect the right to life. These measures are similar to United Nations guidelines adopted to give meaningful protection to other core human rights obligations. They include:

- (a) The prohibition of civilian possession of weapons designed for military use (automatic and semi-automatic assault rifles, machine guns and light weapons);
 - (b) Organization and promotion of amnesties to encourage the retiring of weapons from active use;
 - (c) Requirement of marking and tracing information by manufacturers
- ...

II. THE PRINCIPLE OF SELF-DEFENCE WITH REGARD TO HUMAN RIGHTS VIOLATIONS COMMITTED WITH SMALL ARMS AND LIGHT WEAPONS

19. This report discusses and recognizes the principle of self-defence in human rights law and assesses its proper place in the establishment of human rights principles governing small arms and light weapons. Those opposing the State regulation of civilian possession of firearms claim that the principle of self-defence provides legal support for a “right” to possess small arms thus negating or substantially minimizing the duty of States to regulate possession. The

present report concludes that the principle of self-defence has an important place in international human rights law, but that it does not provide an independent, legal supervening right to small arms possession, nor does it ameliorate the duty of States to use due diligence in regulating civilian possession.

**A. SELF-DEFENCE AS AN EXEMPTION TO CRIMINAL RESPONSIBILITY,
NOT A HUMAN RIGHT**

20. Self-defence is a widely recognized, yet legally proscribed, exception to the universal duty to respect the right to life of others. Self-defence is a basis for exemption from criminal responsibility that can be raised by any State agent or non-State actor. Self-defence is sometimes designated as a “right”. There is inadequate legal support for such an interpretation. Self-defence is more properly characterized as a means of protecting the right to life and, as such, a basis for avoiding responsibility for violating the rights of another.

21. No international human right of self-defence is expressly set forth in the primary sources of international law: treaties, customary law, or general principles. While the right to life is recognized in virtually every major international human rights treaty, the principle of self-defence is expressly recognized in only one, the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), article 2. Self-defence, however, is not recognized as a right in the European Convention on Human Rights. According to one commentator, “The function of this provision is simply to remove from the scope of application of article 2(1) killings necessary to defend against unlawful violence. It does not provide a right that must be secured by the State”.

22. Self-defence is broadly recognized in customary international law as a defence to criminal responsibility as shown by State practice. There is not evidence however that States have enacted self-defence as a freestanding right under their domestic laws, nor is there evidence of *opinio juris* that would compel States to recognize an independent, supervening right to self-defence that they must enforce in the context of their domestic jurisdictions as a supervening right.

23. Similarly, international criminal law sets forth self-defence as a basis for avoiding criminal responsibility, not as an independent right. The International Criminal Tribunal for the Former Yugoslavia noted the universal elements of the principle of self-defence. The International Criminal Tribunal for the Former Yugoslavia noted “that the ‘principle of self-defence’ enshrined in article 31, paragraph 1, of the Rome Statute of the International Criminal Court ‘reflects provisions found in most national criminal codes and may be regarded as constituting a rule of customary international law’”. As the chapeau of article 31 makes clear, self-defence is identified as one of the “grounds for excluding criminal responsibility”. The legal defence defined in article 31, paragraph (d) is for: conduct which is alleged to constitute a crime within the jurisdiction of the Court has been caused by duress resulting from a threat of imminent death or of continuing or imminent serious bodily harm against that person or another person, and the person acts necessarily and reasonably

to avoid this threat, provided that the person does not intend to cause a greater harm than the one sought to be avoided. Thus, international criminal law designates self-defence as a rule to be followed to determine criminal liability, and not as an independent right which States are required to enforce.

24. There is support in the jurisprudence of international human rights bodies for requiring States to recognize and evaluate a plea of self-defence as part of the due process rights of criminal defendants. Some members of the Human Rights Committee have even argued that article 6, paragraph 2, of the International Covenant on Civil and Political Rights requires national courts to consider the personal circumstances of a defendant when sentencing a person to death, including possible claims of self-defence, based on the States Parties' duty to protect the right to life. Under common law jurisdictions, courts must take into account factual and personal circumstances in sentencing to the death penalty in homicide cases. Similarly, in civil law jurisdictions: "Various aggravating or extenuating circumstances such as self-defence, necessity, distress and mental capacity of the accused need to be considered in reaching criminal conviction/sentence in each case of homicide."

25. Again, the Committee's interpretation supports the requirement that States recognize self-defence in a criminal law context. Under this interpretation of international human rights law, the State could be required to exonerate a defendant for using firearms under extreme circumstances where it may be necessary and proportional to an imminent threat to life. Even so, none of these authorities enumerate an affirmative international legal obligation upon the State that would require the State to allow a defendant access to a gun.

B. NECESSITY AND PROPORTIONALITY REQUIREMENTS FOR CLAIM OF SELF-DEFENCE

26. International bodies and States universally define self-defence in terms of necessity and proportionality. Whether a particular claim to self-defence is successful is a fact-sensitive determination. When small arms and light weapons are used for self-defence, for instance, unless the action was necessary to save a life or lives and the use of force with small arms is proportionate to the threat of force, self-defence will not alleviate responsibility for violating another's right to life.

27. The use of small arms and light weapons by either State or non-State actors automatically raises the threshold for severity of the threat which must be shown in order to justify the use of small arms or light weapons in defence, as required by the principle of proportionality. Because of the lethal nature of these weapons and the *jus cogens* human rights obligations imposed upon all States and individuals to respect the right to life, small arms and light weapons may be used defensively only in the most extreme circumstances, expressly, where the right to life is already threatened or unjustifiably impinged.

28. The requirements for a justifiable use of force in self-defence by State officials are set forth in the United Nations Basic Principles on the Use of Force

and Firearms by Law Enforcement Officials. In exceptional circumstances that necessitate the use of force to protect life, State officials may use firearms and claim self-defence or defence of others as a justification for their decision to use force. However, if possible to avoid the threat without resorting to force, the obligation to protect life includes the duty of law enforcement to utilize alternative non-violent and non-lethal methods of restraint and conflict resolution.

29. The severe consequences of firearm use therefore necessitate more detailed and stricter guidelines than other means of force. Even when firearm use does not result in death, the injuries caused by firearm shots can be paralyzing, painful, and may immobilize a person for a much longer period of time than would other methods of temporary immobilization. The training handbook for police on human rights practices and standards produced by the Office of the High Commissioner for Human Rights says that “firearms are to be used only in extreme circumstance”. Any use of a firearm by a law enforcement official outside of the above-mentioned situational context will likely be incompatible with human rights norms. . . .

D. SELF-DEFENCE BY STATES AGAINST THE FORCE OF OTHER STATES

38. Finally, it is important to address briefly the claim that Article 51 of the Charter of the United Nations provides a legal right to self-defence to individuals. The ability of States to use force against another State in self-defence, through individual State action or collective action with other States, is recognized in Article 51 of the Charter. This article is applicable to the States Members of the United Nations who act in defence of armed attacks against their State sovereignty. Article 51 provides an exception to the general prohibition on threat or use of force in international law, as expressed in article 2, paragraph 4, of the Charter. International customary law also binds States who act in self-defence against other States to conform to the three elements of necessity, proportionality and immediacy of the threat.

39. The right of self-defence in international law is not directed toward the preservation of lives of individuals in the targeted country; it is concerned with the preservation of the State. Article 51 was not intended to apply to situations of self-defence for individual persons. Article 51 has never been discussed in either the Security Council or General Assembly as applicable, in any way, to individual persons. Antonio Cassese notes that the principle of self-defence claimed by individuals is often wrongly confused with self-defence under public international law, such as in Article 51. “The latter relates to conduct by States or State-like entities, whereas the former concerns actions by individuals against other individuals . . . confusion [between the two] is often made.” . . .

NOTES & QUESTIONS

1. According to the Frey report, a state’s failure to restrict self-defence is itself a human rights violation. The report states that a government has violated

the human right to life to the extent that a state allows the defensive use of a firearm “unless the action was necessary to save a life or lives.” Thus, firearms “may be used defensively only in the most extreme circumstances, expressly, where the right to life is already threatened or unjustifiably impinged.” In other words, not only is a government not *obligated* to allow the use of deadly force to defend against rape, arson, carjacking, or armed robbery, any government that does generally allow citizens to use lethal self-defense against these crimes *has itself violated human rights*—namely, the criminal’s right to life.

Do you agree with the U.N. Human Rights Council and Professor Frey that it is a human rights violation for governments to allow the use of deadly force in self-defense in such circumstances? Practically, speaking, how would you administer a legal system based on the HRC’s standards? For example, what criteria should be used to discern whether a rapist is simply intent on rape and not murder?

2. Relatedly, everywhere in the United States, law enforcement officials may use deadly force to prevent the commission of certain crimes (such as rape or sexual assault on a child) even when the law enforcement officer has no reason to believe that the victim might be killed or seriously injured. Do you agree with the Human Rights Council that such uses of force violate human rights?

3. The Human Rights Council’s “draft principles” include detailed rules for gun control, among them that no one may possess a firearm without a permit, and the permit should enumerate “specific purposes” for which the gun could be used. Today, the only U.S. jurisdiction which is even partially compliant with the Human Rights Council’s “specific purposes” rules is New York State for handgun licensing; a New York handgun permit may specify that the permit is only for target shooting, or for hunting. The handgun permit may also be unrestricted, allowing the gun to be carried for lawful self-defense.

In every other US jurisdiction, if a person can legally possess a firearm, the person can use the firearm for all lawful purposes, including target shooting, collecting, hunting, and self-defense. (With the caveats that hunting, at least on public lands, typically requires a separate hunting license; and that carrying for self-defense outside of one’s home, business premises, or automobile typically requires a separate permit as well.)

4. When New York City issues permits to residents to possess rifles and shotguns, the permits are not limited to one particular purpose. The permittee may use the firearm for any lawful purpose, such as collecting, shooting flying clay disks (trap, skeet, and sporting clays), bird hunting, or home-defense. This is contrary to the Human Rights Council’s draft principles. Is New York City violating human rights in how it issues rifle or shotgun permits? As host city for the United Nations, does New York City have a special obligation to conform its municipal laws to U.N. guidance?

5. The Bill of Rights to the United States Constitution protects individual rights by limiting government power. Does the Frey report envision a different approach? Is the difference significant? Could the Frey approach be implemented in a manner that is consistent with the U.S. constitutional structure, which does not generally guarantee “positive rights” (things that the government must provide)?

It is a well-established rule that police and governments have no responsibility for protecting anyone in particular from crime. *DeShaney v. Winnebago County*, 489 U.S. 189 (1989) (government inaction in rescuing child who was known to be severely abused, and was later murdered); *Riss v. New York*, 240 N.E.2d 860 (N.Y. 1968) (stalker who attacked and disfigured his victim; dissent notes that Miss Riss was prevented from carrying a firearm in public by New York law). Would the Frey approach demand a different outcome in cases like *DeShaney* and *Riss*?

6. What do you make of the Frey Report’s acknowledgement that nations have a right to self-defense to protect themselves, but that individuals do not? Is this consistent with the vision of the American founders underlying the Second Amendment? See Chapters 3, 4, 11.K.

The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa

[The Nairobi Protocol is a gun control agreement among East African governments. Consistent with the 2001 U.N. Programme of Action on small arms control, the U.N. facilitated the Nairobi Protocol, as well as similar regional agreements in Southern Africa (Southern African Development Community, SADC) and in West Africa (Economic Community of West African States, ECOWAS).]

Preamble

We, the Ministers of Foreign Affairs and other plenipotentiaries of Republic of Burundi, Democratic Republic of Congo, Republic of Djibouti, Federal Democratic Republic of Ethiopia, State of Eritrea, Republic of Kenya, Republic of Rwanda, Republic of Seychelles, Republic of the Sudan, United Republic of Tanzania, Republic of Uganda (Hereafter referred to as the States Parties); . . .

Article 3

Legislative Measures

(a) Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its national law the following conduct, when committed intentionally:

- (i) Illicit trafficking in small arms and light weapons.
- (ii) Illicit manufacturing of small arms and light weapons.
- (iii) Illicit possession and misuse of small arms and light weapons.
- (iv) Falsifying or illicitly obliterating, removing or altering the markings on small arms and light weapons as required by this Protocol.

(b) States Parties that have not yet done so shall adopt the necessary legislative or other measures to sanction criminally, civilly or administratively under their national law the violation of arms embargoes mandated by the Security Council of the United Nations and/or regional organisations.

(c) States Parties undertake to incorporate in their national laws:

- (i) the prohibition of unrestricted civilian possession of small arms;
 - (ii) the total prohibition of the civilian possession and use of all light weapons and automatic and semi-automatic rifles and machine guns;
 - (iii) the regulation and centralised registration of all civilian-owned small arms in their territories (without prejudice to Article 3 c (ii));
 - (iv) measures ensuring that proper controls be exercised over the manufacturing of small arms and light weapons;
 - (v) provisions promoting legal uniformity and minimum standards regarding the manufacture, control, possession, import, export, re-export, transit, transport and transfer of small arms and light weapons;
 - (vi) provisions ensuring the standardised marking and identification of small arms and light weapons;
 - (vii) provisions that adequately provide for the seizure, confiscation, and forfeiture to the State of all small arms and light weapons manufactured or conveyed in transit without or in contravention of licenses, permits, or written authority;
 - (viii) provisions for effective control of small arms and light weapons including the storage and usage thereof, competency testing of prospective small arms owners and restriction on owners' rights to relinquish control, use, and possession of small arms;
 - (ix) the monitoring and auditing of licenses held in a person's possession, and the restriction on the number of small arms that may be owned;
 - (x) provisions prohibiting the pawning and pledging of small arms and light weapons;
 - (xi) provisions prohibiting the misrepresentation or withholding of any information given with a view to obtain any license or permit;
 - (xii) provisions regulating brokering in the individual State Parties;
- and
- (xiii) provisions promoting legal uniformity in the sphere of sentencing. . . .

Article 5

Control of Civilian Possession of Small Arms and Light Weapons

(a) States Parties undertake to consider a co-ordinated review of national procedures and criteria for issuing and withdrawing of small arms and light weapons licenses, and establishing and maintaining national databases of licensed small arms and light weapons, small arms and light weapons owners, and commercial small arms and light weapons traders within their territories.

(b) State Parties undertake to:

- (i) introduce harmonised, heavy minimum sentences for small arms and light weapons crimes and the carrying of unlicensed small arms and light weapons;
- (ii) register and ensure strict accountability and effective control of all small arms and light weapons owned by private security companies;
- (iii) prohibit the civilian possession of semi-automatic and automatic rifles and machine guns and all light weapons. . . .

Article 17

Corruption

States Parties shall institute appropriate and effective measures for cooperation between law enforcement agencies to curb corruption associated with the illicit manufacturing of, trafficking in, illicit possession and use of small arms and light weapons. . . .

NOTES & QUESTIONS

1. Signatories to the Nairobi Protocol agree to comply with U.N. arms embargoes, which as U.N. members they are supposed to comply with anyway. Yet the countries that are known to have violated the U.N. arms embargo on the eastern Democratic Republic of the Congo are Albania, Burundi, China, the Democratic Republic of the Congo, Rwanda, South Africa, Sudan, Uganda, and Zimbabwe, five of which are signers of the Nairobi Protocol. David B. Kopel, Paul Gallant, & Joanne D. Eisen, *The Arms Trade Treaty: Zimbabwe, the Democratic Republic of the Congo, and the Prospects for Arms Embargoes on Human Rights Violators*, 114 Penn St. L. Rev. 891 (2010). Can anything be done to make arms embargoes effective when governments who promise to obey them do not?
2. The Nairobi Protocol mandates registration of all firearms. Is it a good idea that each of the governments that joined the Protocol knows where all guns within its borders are at all times? The Protocol also mandates a ban on semi-automatic rifles. What effects would such a ban have, if successfully implemented? Are there issues in East Africa that make a ban on semi-automatic rifles more or less desirable than would be the case elsewhere?
3. Under the Nairobi Protocol, all automatic rifles must be banned. In the United States, there are only about 100,000 automatics in civilian hands, out of a total U.S. gun supply of approximately 300 million guns. In Africa, though, automatics are a much larger fraction of the available gun supply. The typical gun that an African villager might purchase on the black market would be an AK-47 (or its descendants, such as the AK-74 or the AKM, or the dozens of variants manufactured in many other nations). The AK-47 can fire automatically or semi-automatically; a selector switch controls the mode of fire. The gun is very simple, with many fewer parts than its U.S. counterparts, the M-16 and M-4 rifles. The parts of the AK-47 do not fit together as tightly as do the parts of the M-16, or most other Western guns. As a result, the AK-47 is

not as accurate, especially at longer distances; but the AK-47 is renowned for durability and imperviousness to harsh conditions, such as sandstorms. *See generally* Gordon Rottman, *The AK-47: Kalashnikov-series Assault Rifles* (2011). In the United States, there are only a few hundred AK-47-type assault rifles, and most of those are in military museums. (Semi-automatic-only variants of the AK are more commonly owned, numbering at least into the tens of thousands.) But true, fully automatic, AK-type rifles are by far the most common firearm in the Third World, with tens of millions in circulation.

Do these facts affect your assessment of the Nairobi Protocol’s prohibition against any civilian possession of automatic rifles? In what way?

4. According to the Protocol, there must be “heavy minimum sentences” for “the carrying of unlicensed small arms.” Is this a good policy?
5. David B. Kopel, Paul Gallant, & Joanne D. Eisen, *Human Rights and Gun Confiscation*, 26 *Quinnipiac L. Rev.* 385 (2008), examines human rights abuses in gun confiscation programs in Kenya and Uganda, and in South Africa’s quasi-confiscatory licensing law. Chapter 14 also discusses Kenya. Assuming that before the Nairobi Protocol there were human rights abuses in gun control enforcement (e.g., burning villages down to collect guns), would the Protocol affect the prevalence of abuse?
6. The U.S. constitutional right to arms, like much of the rest of the Constitution, is partly based on fear or distrust of government power, especially when that power is concentrated and unchecked. Recall, for example, the tyranny-control justification for the Second Amendment discussed by Judge Kozinski’s dissent to the denial of rehearing en banc in *Silveira v. Lockyer*, 328 F.3d 567 (9th Cir. 2003) (Chapter 11). Are these concerns relevant in the African context? Would Africa be better off or worse off, with widespread gun ownership by ordinary citizens? Does it depend on the country? Do you think there are certain traditions or values that make the right to arms more workable in the United States than it would be in other countries? Does it make a difference whether particular African governments are more or less trustworthy than the U.S. government? Are Africans more capable, less capable, or equally as capable as Americans of responsible firearm ownership? Is a robust right to arms workable in African countries that, after long periods of colonial rule, have mostly been run by dictatorships?

Given Africa’s history, is an individual right to arms, for the purpose of resisting tyranny, more or less important than in, say, the United States or Europe? How does a nation’s or region’s political stability influence your answer? What are the pros and cons of such a right in Africa versus the United States?

7. Is discussion of a right to arms even relevant to the concerns addressed by the Nairobi Protocol? Many of the guns at issue seem to be related to conflicts between governments, political factions, or warlords. Would an individual right to arms make things better or worse in this context? Is the better approach a *de jure* ban on all private guns (with guns available

on the black market to persons willing to break the law)? Who would enforce such a ban?

Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA)

[Founded in 1948, the Organization of American States (OAS) includes all of the independent nations of the Western Hemisphere. (Cuba’s participation was suspended from 1962 to 2009, and Cuba has chosen not to participate since 2009.) In 1997, President William Jefferson Clinton signed a gun control treaty that had been negotiated by OAS. Neither he nor President George W. Bush sent the treaty to the United States Senate for ratification. President Obama, however, did send the treaty to Congress in 2009, but Congress has not ratified it.

The treaty is commonly known as “CIFTA,” for its Spanish acronym, *Convención Interamericana contra la Fabricación y el Tráfico Ilícitos de Armas de Fuego, Municiones, Explosivos y Otros Materiales Relacionados*. The document is called a “Convention” rather than “Treaty,” because “Convention” is a term of art for a multilateral treaty created by a multinational organization.]

THE STATES PARTIES, . . .

MINDFUL of the pertinent resolutions of the United Nations General Assembly on measures to eradicate the illicit transfer of conventional weapons and on the need for all states to guarantee their security, and of the efforts carried out in the framework of the Inter-American Drug Abuse Control Commission (CICAD); . . .

RECOGNIZING that states have developed different cultural and historical uses for firearms, and that the purpose of enhancing international cooperation to eradicate illicit transnational trafficking in firearms is not intended to discourage or diminish lawful leisure or recreational activities such as travel or tourism for sport shooting, hunting, and other forms of lawful ownership and use recognized by the States Parties;

RECALLING that States Parties have their respective domestic laws and regulations in the areas of firearms, ammunition, explosives, and other related materials, and recognizing that this Convention does not commit States Parties to enact legislation or regulations pertaining to firearms ownership, possession, or trade of a wholly domestic character, and recognizing that States Parties will apply their respective laws and regulations in a manner consistent with this Convention;

REAFFIRMING the principles of sovereignty, nonintervention, and the juridical equality of states,

HAVE DECIDED TO ADOPT THIS INTER-AMERICAN CONVENTION AGAINST THE ILLICIT MANUFACTURING OF AND TRAFFICKING IN FIREARMS, AMMUNITION, EXPLOSIVES, AND OTHER RELATED MATERIALS:

Article I

Definitions

For the purposes of this Convention, the following definitions shall apply:

1. "Illicit manufacturing": the manufacture or assembly of firearms, ammunition, explosives, and other related materials:
 - a. from components or parts illicitly trafficked; or
 - b. without a license from a competent governmental authority of the State Party where the manufacture or assembly takes place; or
 - c. without marking the firearms that require marking at the time of manufacturing.
2. "Illicit trafficking": the import, export, acquisition, sale, delivery, movement, or transfer of firearms, ammunition, explosives, and other related materials from or across the territory of one State Party to that of another State Party, if any one of the States Parties concerned does not authorize it.
3. "Firearms":
 - a. any barreled weapon which will or is designed to or may be readily converted to expel a bullet or projectile by the action of an explosive, except antique firearms manufactured before the 20th Century or their replicas; or
 - b. any other weapon or destructive device such as any explosive, incendiary or gas bomb, grenade, rocket, rocket launcher, missile, missile system, or mine.
4. "Ammunition": the complete round or its components, including cartridge cases, primers, propellant powder, bullets, or projectiles that are used in any firearm.
5. "Explosives": any substance or article that is made, manufactured, or used to produce an explosion, detonation, or propulsive or pyrotechnic effect, except:
 - a. substances and articles that are not in and of themselves explosive; or
 - b. substances and articles listed in the Annex to this Convention.
6. "Other related materials": any component, part, or replacement part of a firearm, or an accessory which can be attached to a firearm. . . .

Article III

Sovereignty

1. States Parties shall carry out the obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of states and that of nonintervention in the domestic affairs of other states.
2. A State Party shall not undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved to the authorities of that other State Party by its domestic law.

Article IV

Legislative Measures

1. States Parties that have not yet done so shall adopt the necessary legislative or other measures to establish as criminal offenses under their domestic law the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials.
2. Subject to the respective constitutional principles and basic concepts of the legal systems of the States Parties, the criminal offenses established pursuant to the foregoing paragraph shall include participation in, association or conspiracy to commit, attempts to commit, and aiding, abetting, facilitating, and counseling the commission of said offenses.

Article V

Jurisdiction

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the offense in question is committed in its territory.
2. Each State Party may adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the offense is committed by one of its nationals or by a person who habitually resides in its territory.
3. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the alleged criminal is present in its territory and it does not extradite such person to another country on the ground of the nationality of the alleged criminal.
4. This Convention does not preclude the application of any other rule of criminal jurisdiction established by a State Party under its domestic law. . . .

Article VII

Confiscation or Forfeiture

1. States Parties undertake to confiscate or forfeit firearms, ammunition, explosives, and other related materials that have been illicitly manufactured or trafficked.
2. States Parties shall adopt the necessary measures to ensure that all firearms, ammunition, explosives, and other related materials seized, confiscated, or forfeited as the result of illicit manufacturing or trafficking do not fall into the hands of private individuals or businesses through auction, sale, or other disposal. . . .

Article IX

Export, Import, and Transit Licenses or Authorizations

1. States Parties shall establish or maintain an effective system of export, import, and international transit licenses or authorizations for transfers of firearms, ammunition, explosives, and other related materials.

2. States Parties shall not permit the transit of firearms, ammunition, explosives, and other related materials until the receiving State Party issues the corresponding license or authorization.

3. States Parties, before releasing shipments of firearms, ammunition, explosives, and other related materials for export, shall ensure that the importing and in-transit countries have issued the necessary licenses or authorizations.

4. The importing State Party shall inform the exporting State Party, upon request, of the receipt of dispatched shipments of firearms, ammunition, explosives, and other related materials. . . .

Article XI

Recordkeeping

States Parties shall assure the maintenance for a reasonable time of the information necessary to trace and identify illicitly manufactured and illicitly trafficked firearms to enable them to comply with their obligations under Articles XIII and XVII. . . .

Article XIII

Exchange of Information

1. States Parties shall exchange among themselves, in conformity with their respective domestic laws and applicable treaties, relevant information on matters such as:

- a. authorized producers, dealers, importers, exporters, and, whenever possible, carriers of firearms, ammunition, explosives, and other related materials;
- b. the means of concealment used in the illicit manufacturing of or trafficking in firearms, ammunition, explosives, and other related materials, and ways of detecting them;
- c. routes customarily used by criminal organizations engaged in illicit trafficking in firearms, ammunition, explosives, and other related materials;
- d. legislative experiences, practices, and measures to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials; and
- e. techniques, practices, and legislation to combat money laundering related to illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials.

2. States Parties shall provide to and share with each other, as appropriate, relevant scientific and technological information useful to law enforcement, so as to enhance one another's ability to prevent, detect, and investigate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials and prosecute those involved therein.

3. States Parties shall cooperate in the tracing of firearms, ammunition, explosives, and other related materials which may have been illicitly manufactured or trafficked. Such cooperation shall include accurate and prompt responses to trace requests.

Article XIV

Cooperation

1. States Parties shall cooperate at the bilateral, regional, and international levels to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials.

2. States Parties shall identify a national body or a single point of contact to act as liaison among States Parties, as well as between them and the Consultative Committee established in Article XX, for purposes of cooperation and information exchange. . . .

Article XVII

Mutual Legal Assistance

1. States Parties shall afford one another the widest measure of mutual legal assistance, in conformity with their domestic law and applicable treaties, by promptly and accurately processing and responding to requests from authorities which, in accordance with their domestic law, have the power to investigate or prosecute the illicit activities described in this Convention, in order to obtain evidence and take other necessary action to facilitate procedures and steps involved in such investigations or prosecutions.

2. For purposes of mutual legal assistance under this article, each Party may designate a central authority or may rely upon such central authorities as are provided for in any relevant treaties or other agreements. The central authorities shall be responsible for making and receiving requests for mutual legal assistance under this article, and shall communicate directly with each other for the purposes of this article. . . .

Article XIX

Extradition

1. This article shall apply to the offenses referred to in Article IV of this Convention.

2. Each of the offenses to which this article applies shall be deemed to be included as an extraditable offense in any extradition treaty in force between or among the States Parties. The States Parties undertake to include such offenses as extraditable offenses in every extradition treaty to be concluded between or among them.

3. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis for extradition with respect to any offense to which this article applies.

4. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offenses to which this article applies as extraditable offenses between themselves.

5. Extradition shall be subject to the conditions provided for by the law of the Requested State or by applicable extradition treaties, including the grounds on which the Requested State may refuse extradition.

6. If extradition for an offense to which this article applies is refused solely on the basis of the nationality of the person sought, the Requested State Party shall submit the case to its competent authorities for the purpose of prosecution under the criteria, laws, and procedures applied by the Requested State to those offenses when they are committed in its own territory. The Requested and Requesting States Parties may, in accordance with their domestic laws, agree otherwise in relation to any prosecution referred to in this paragraph. . . .

Article XXII

Signature

This Convention is open for signature by member states of the Organization of American States.

Article XXIII

Ratification

This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

Article XXIV

Reservations

States Parties may, at the time of adoption, signature, or ratification, make reservations to this Convention, provided that said reservations are not incompatible with the object and purposes of the Convention and that they concern one or more specific provisions thereof.

Article XXV

Entry into Force

This Convention shall enter into force on the 30th day following the date of deposit of the second instrument of ratification. For each state ratifying the Convention after the deposit of the second instrument of ratification, the Convention shall enter into force on the 30th day following deposit by such state of its instrument of ratification.

Article XXVI

Denunciation

1. This Convention shall remain in force indefinitely, but any State Party may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After six months from the date of deposit of the instrument of denunciation, the Convention shall no longer be in force for the denouncing State, but shall remain in force for the other States Parties.

2. The denunciation shall not affect any requests for information or assistance made during the time the Convention is in force for the denouncing State.

ANNEX

The term “explosives” does not include: compressed gases; flammable liquids; explosive actuated devices, such as air bags and fire extinguishers; propellant actuated devices, such as nail gun cartridges; consumer fireworks suitable for use by the public and designed primarily to produce visible or audible effects by combustion, that contain pyrotechnic compositions and that do not project or disperse dangerous fragments such as metal, glass, or brittle plastic; toy plastic or paper caps for toy pistols; toy propellant devices consisting of small paper or composition tubes or containers containing a small charge or slow burning propellant powder designed so that they will neither burst nor produce external flame except through the nozzle on functioning; and smoke candles, smokepots, smoke grenades, smoke signals, signal flares, hand signal devices, and Very signal cartridges designed to produce visible effects for signal purposes containing smoke compositions and no bursting charges.

NOTES & QUESTIONS

1. *Firearms destruction.* CIFTA requires that any firearms confiscated from criminals (such as stolen guns) be destroyed, rather than returned to the original owner or sold to a licensed firearms dealer. In the United States, it is common for police departments and sheriffs’ offices to sell confiscated firearms to federally licensed firearms dealers (federal firearms licensees, or FFLs). The FFLs then resell the guns to lawful purchasers. Should this practice be outlawed? Does your answer turn on an instinct about whether even small reductions in guns per capita would be socially beneficial? Review the material in Chapter 12 tracking the gun-crime rate and the number of private guns in the United States. Does that material support your intuitions?
2. *Ammunition handloading.* In the United States, millions of people manufacture their own ammunition. As noted in Chapter 3, Americans have long made their own ammunition, but today it is much easier because ammunition components are readily available at retail. Home workshop presses for “handloading” or “reloading” speed the assembly of an empty, used ammunition shell, plus a new primer, gunpowder, and bullet to create a fresh round of ammunition.

Competitive target shooters are often handloaders. They fire so much ammunition in practice (often tens of thousands of rounds per year) that they cannot afford to use only store-bought ammunition. More importantly, their custom crafted ammunition, geared precisely to their particular guns, will be more accurate than factory ammunition. Some hunters also like to create custom ammunition tailored to their particular firearm and type of

game. Many firearms safety trainers handload especially mild ammunition for use in teaching beginners. Another category of handloaders is hobbyists who simply enjoy making things themselves, and saving money. The competitive shooter might manufacture more than a thousand rounds of ammunition in a month. The big game hunter might make only 50 or 100 per year.

Handloading is lawful in every U.S. state, and no state requires a specific permit for handloading. CIFTA declares (in art. I, §1, and art. IV, §1) that “manufacture or assembly” of ammunition may only take place if the government has issued a license. The Bureau of Alcohol, Tobacco, Firearms (ATF) and Explosives currently issues licenses to companies (or individuals) who manufacture ammunition that will be transferred to another person. Requiring licenses for handloading for personal use would require a major addition of new ATF personnel, to process millions of manufacturing license applications. Would changing U.S. laws to comply with CIFTA be good policy?

3. *Manufacturing.* CIFTA not only requires that manufacture of firearms or ammunition be forbidden except under government license. Article I further mandates licensing for the manufacture of “other related materials.” These are defined as “any component, part, or replacement part of a firearm, or an accessory which can be attached to a firearm.” The definition straightforwardly includes all firearms spare parts. It also includes accessories that are attached to firearms, such as scopes, ammunition magazines, sights, recoil pads, bipods, and slings.

Current U.S. law requires a license to manufacture firearms commercially, and “firearm” is defined as the receiver (*see* Chapter 1 and online Chapter 15). No federal license is needed for making other parts of the firearm, such as barrels or stocks, or other firearms accessories such as scopes, slings, or the like.

The Convention literally requires federal licensing of the manufacturers and sellers of barrels, stocks, screws, springs, and everything else that may be used to make firearms. Likewise, the manufacture of all accessories—for example, scopes, sights, lasers, slings, bipods, and so on—would have to be licensed.

In the United States, the manufacture of an ordinary firearm or ammunition for personal use does not require a license, because the manufacturer licensing requirements apply only to persons who “engage in the business” by engaging in repeated transactions for profit. 18 U.S.C. §923(a). *But see* 28 U.S.C. §§5821-5822 (requiring federal permission and a tax payment for the manufacture of certain unusual firearms, such as machine guns and short-barreled rifles or shotguns, covered by the National Firearms Act). The Convention would require licensing for everyone.

Many, perhaps most, firearm owners occasionally tinker with their guns. They may replace a worn-out spring, or install a better barrel. Or they may add accessories such as a scope, a laser aiming device, a recoil pad, or a sling. All of these activities would require a government license under CIFTA. The Article I definition of “Illicit manufacturing” is “the manufacture *or assembly* of firearms, ammunition, explosives, *and other related materials*” (emphasis added).

Even if putting an attachment on a firearm were not considered in itself to be “assembly,” the addition of most components necessarily requires some assembly. For example, scope rings consist of several pieces that must be assembled. Replacing one grip with another requires, at the least, the use of screws. And in some guns, like the AR-15, replacement of the grip, if done incorrectly, will cause the gun to malfunction. The grip on this gun holds in place a spring and plunger that control the safety selector switch. If the spring and plunger fall out when you remove the grip (they often do), installing a new grip would seemingly constitute assembly.

Because the definition of “manufacturing” is so broad, most gun owners would eventually be required to obtain a manufacturing license. CIFTA itself does not specifically require gun registration (although the CIFTA model legislation, discussed below, does require comprehensive registration). Under current U.S. federal laws, once a person has a manufacturing license, registration comes with it. Existing federal regulations for the manufacturers of firearms and ammunition require that manufacturers keep detailed records of what they manufacture, and these records must be available for government inspection.

Would it be a good idea if handloaders were required to keep records of every round they made, and gun owners would have to keep a record of everything they “assembled” (e.g., putting a scope on a rifle)? These records would then presumably be open to warrantless ATF inspection. (See the *United States v. Biswell*, 406 U.S. 311 (1972), case in Chapter 8 for discussion of warrantless inspections of federal firearms licensees.)

4. *Requirement to change U.S. law?* CIFTA mandates that “States Parties that have not yet done so shall adopt the necessary legislative or other measures to establish as criminal offenses under their domestic law the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials [T]he criminal offenses established pursuant to the foregoing paragraph shall include participation in, association or conspiracy to commit, attempts to commit, and aiding, abetting, facilitating, and counseling the commission of said offenses.” Yet the Preamble of CIFTA says: “[T]his Convention does not commit States Parties to enact legislation or regulations pertaining to firearms ownership, possession, or trade of a wholly domestic character.”

Does the Preamble negate the comprehensive licensing system that CIFTA demands? The exemptions are for “ownership, possession, or trade.” There is no exemption for “manufacturing.” As detailed above, “manufacturing” is defined broadly enough to include the home manufacture of ammunition, as well as repair of one’s firearm, or assembling an accessory for attachment to one’s firearm.

The nations that have ratified CIFTA so far have not fully implemented the literal requirements regarding firearms and related material manufacturing. It is hardly unusual for nations to make a show of ratifying a treaty but then do little to carry out the treaty’s requirements.

If ratified by the Senate, the CIFTA Convention would become the law of the land, on equal footing with congressional enactments and second only to constitutional limitations on governmental action. Would the ATF

then be empowered to write regulations implementing the Convention — without waiting for Congress to pass a new statute? Would any of the regulations necessary to implement CIFTA raise Second Amendment questions under *District of Columbia v. Heller*, 544 U.S. 570 (2008) (Chapter 9)?

If a treaty is “self-executing,” then it is an independent source of authority for domestic regulations. Under traditional views of international law, CIFTA is not self-executing, because it anticipates that ratifying governments will have to enact future laws in order to comply.

On the other hand, CIFTA does not explicitly disclaim self-executing status. Harold Koh, former Legal Adviser to the U.S. Department of State, has challenged the doctrine of “so-called self-executing treaties” and argues that the Supreme Court decisions creating the doctrine are incorrect. In other words, Koh argues that all treaties should be presumed to be self-executing. *See* Harold Hongju Koh, *Paying “Decent Respect” to World Opinion on the Death Penalty*, 35 U.C. Davis L. Rev. 1085, 1111 & n.114 (2002); Harold Hongju Koh, *The 1998 Frankel Lecture: Bringing International Law Home*, 35 Hous. L. Rev. 623, 666 (1998); Harold Hongju Koh, *Transnational Public Law Litigation*, 100 Yale L.J. 2347, 2658 n.297 (legislatures “should ratify treaties with a presumption that they are self-executing”), 2360-61, 2383-84 (1991).

Would it be better if treaties ratified by the Senate automatically had the same force as federal statutes and authorized relevant administrative agencies to promulgate automatically regulations?

5. Would Senate ratification of CIFTA trump the 2005 Protection of Lawful Commerce in Arms Act (*see* Chapter 8), which outlaws most lawsuits against gun manufacturers and stores for selling properly functioning firearms that are later misused?

Suppose that the Senate, when ratifying CIFTA, added specific reservations declaring that CIFTA is not self-executing, that CIFTA authorizes no additional regulations, and that CIFTA does not authorize any new lawsuits. Could the U.S. executive branch properly ignore the reservations? Regarding a Senate reservation to another treaty, Koh wrote, “Many scholars question persuasively whether the United States declaration has either domestic or international legal effect.” Harold Hongju Koh, *Is International Law Really State Law?*, 111 Harv. L. Rev. 1824, 1828-29 n.24 (1998).

6. *CIFTA model legislation.* The OAS had drafted model legislation for the implementation of CIFTA, including: Model Legislation on the Marking and Tracing of Firearms (Apr. 19, 2007); Draft Model Legislation and Commentaries on Legislative Measures to Establish Criminal Offenses (May 9, 2008); Broker Regulations (Nov. 17-20, 2003). All are available at <http://www.oas.org>.

Among the provisions in the CIFTA models is criminalization of any “unauthorized” acquisition of firearms or ammunition. Respecting the seizure of any “illicit” firearms or ammunition, the model legislation states that courts “shall issue, at any time, without prior notification or hearing, a freezing or seizure order.” The recommended prison term for any unauthorized firearm or ammunition is from one to ten years.

“Arms Brokers” are defined as anyone who “for a fee, commission or other consideration, acts on behalf of others to negotiate or arrange contracts, purchases, sales or other means of transfer of firearms, their parts or components or ammunition.” This is broad enough to include a hunting guide who arranges that the local gun store have suitable ammunition on hand for his clients.

Arms brokers must have a license from the national government. A broker must file annual reports with the government specifying exactly what arms and ammunition he brokered, and to whom. A broker’s records are subject to government inspection without need for a warrant.

Pursuant to the CIFTA model, governments must register all guns and their owners: “The name and location of the owner and legal user of a firearm and each subsequent owner and legal user thereof, when possible.” In addition, people who do not own a gun, but who use it (e.g., borrowing a friend’s gun to go hunting), must also register: “The name and location of the owner and legal user of a firearm and each subsequent owner and legal user thereof, when possible.”

Which elements of the CIFTA model laws would be appropriate for adoption in the United States?

For further reading, see Theodore Bromund, Ray Walser, & David B. Kopel, [The OAS Firearms Convention Is Incompatible with American Liberties](#) (Heritage Found. Backgrounder, May 19, 2010) (raising Second Amendment concerns, and pointing out that under CIFTA’s Article IV anti-counseling provision, “it would be illegal for a citizen of a signatory foreign tyranny to say that his fellow victims should seek to arm themselves,” and the CIFTA would require the United States to extradite such a person for prosecution by the foreign tyranny).

B. Classical International Law

International law in some form can be found in ancient times, such as in the Roman Law concept of *jus gentium* (laws that are found among all peoples), or in the first true international legal code, the Rhodian Law, which was promulgated by the rulers of the island of Rhodes, in the eastern Mediterranean Sea. The Rhodian Law was the earliest maritime code, and was put into its final form between 600 and 800 A.D. The Rhodian Law extended far beyond the boundaries of the island of Rhodes, and was the widely accepted international law for the thriving maritime trade of the eastern Mediterranean.³

3. Notably, the Rhodian Law recognized personal self-defense: “Sailors are fighting and A strikes B with a stone or log; B returns the blow; he did it from necessity. Even if A dies, if it is proved that he gave the first blow whether with a stone or log or axe, B, who struck and killed him, is to go harmless; for A suffered what he wished to inflict.” Walter Ashburner, *The Rhodian Sea Law* 84 (Walter Ashburner ed., 2001).

But international law in the sense that we understand it today was created during the Enlightenment, in what is now called the Classical Period in international law. At that time, influential scholars wrote treatises about the obligations of civilized nations, and these treatises were often accepted by national governments as authoritative statements of binding law. They covered a variety of issues, such as rules for the treatment of ambassadors, and for maritime trade and navigation. The preeminent concern, however, was the law of war. These treatises prohibited making war against civilians, killing prisoners, and unprovoked attacks for the purpose of conquest. The laws of war were derived by deduction from the principles of personal self-defense. For example, a person would have the right to use force to defend herself against a violent attacker, but if she subdued the attacker and tied him up so that he was no longer a threat, then she could not kill the attacker. Similarly, once an enemy soldier was taken prisoner, he could not be killed.

The treatises were works of moral and political philosophy. Because they attempted to elucidate the laws that must necessarily apply to all nations, they started with natural law, which by definition is found everywhere. (See the Index entry on Natural rights for discussion of natural law elsewhere in the textbook.) Starting from first principles like self-defense, the treatises examined topics such as when forcible resistance to tyranny was legitimate, or whether invading another country to liberate its people from a tyrant could be lawful.

All of the authors discussed below were enormously influential in their own time, and for centuries afterward. In Protestant Europe and its American colonies, the ideas of the two Catholic authors, Vitoria and Suárez, were mainly known through restatement by the Protestant writers, such as Grotius, Pufendorf, and Vattel. In the American Founding Era, Vattel was generally treated as the authoritative standard of international law.

You may find that the attitudes expressed toward arms and to individual self-defense in these Classical international law materials differ markedly from the attitude implicit in some of materials excerpted in Section A of this chapter.

The narrative below, describing the authors and their treatises, is based on David B. Kopel, Paul Gallant, & Joanne D. Eisen, *The Human Right of Self-Defense*, 22 *BYU J. Pub. L.* 43 (2008). Additional citations can be found therein. For some authors, we provide links to English translations of the works; these translations are not necessarily the same as the English translations used in the Kopel, Gallant, and Eisen article, so there may be small differences in wording.

1. Francisco de Vitoria

During the sixteenth century, the higher education system of Spain was the greatest in the world, and the greatest of the Spanish universities was the University of Salamanca. At Salamanca, as at other universities, the most prestigious professorship was that of head Professor of Theology—a position that included the full scope of ethics and philosophy.

When the Primary chair in Theology at the University of Salamanca became open in 1526, Francisco de Vitoria (1486-1546) was selected to fill it. He was chosen, in accordance with the custom of the time, by a vote of the students. One

of Vitoria’s biographers observed, “It is no slight tribute to democracy that a small democratic, intellectual group should have chosen from among the intellectuals the one person best able to defend democracy for the entire world.” James Brown Scott, *The Spanish Origin of International Law: Francisco de Vitoria and His Law of Nations* 73 (1934).

Like Thomas Aquinas (Chapter 2), Vitoria came from the Dominican Order of monks, which governed itself through democratic, representative procedures established in the Order’s written constitution. Between the destruction of the Roman Republic by Julius Caesar in the first century B.C. (Chapter 2) and the founding of the Dominicans in the thirteenth century A.D., the Western world had very little experience with functional, enduring systems of democratic government. The Dominican Order served as one of the incubators of democracy for the modern world.⁴

University lectures were open to the public, and Vitoria attracted huge audiences of students and laymen. He quickly became known as the best teacher in Spain. He was the founder of the school of Salamanca: a group of Spanish scholars who applied new insights to the Scholastic system of philosophy. (Scholasticism, a dialectical methodology for academic inquiry, had been developed centuries before by Thomas Aquinas and other scholars. *See* Chapter 2.)

Vitoria had been educated in Paris, and was part of a continent-wide community of Dominican intellectuals. Accordingly, Vitoria was an internationalist. One biographer summarized: “Vitoria was a liberal. He could not help being a liberal. He was an internationalist by inheritance. And because he was both, his international law is a liberal law of nations.” Scott, *supra*, at 280.

Francisco de Vitoria’s classroom became “the cradle of international law.” “Vitoria proclaimed the existence of an international law no longer limited to Christendom but applying to all States, without reference to geography, creed, or race.” *Id.*

The Spanish conquest of the New World impelled the sixteenth century’s scholarly inquiry into international law. Many Spaniards were concerned with whether the conquests were moral and legal. The debate led to Francisco de Vitoria’s 1532 treatise *De Indis* (On the Indians). The first two sections of the treatise rejected every argument that Christianity, or the desire to propagate the Christian faith, or even the express authority of the Pope, could justify the conquest of the Indians. Vitoria wrote that heretics, blasphemers, idolaters, and pagans—including those who were presented with Christianity and obstinately rejected it—retained all of their natural rights to their property and their sovereignty.

In section three, Vitoria examined other possible justifications for the conquest. He argued in favor of an unlimited right of free trade. If a Frenchman wanted to travel in Spain, or to pursue peaceful commerce there, the Spanish government had no right to stop him. Similarly, the Spanish had the right to engage in commerce in the New World. A Frenchman had the right to fish or to prospect for gold in Spain (but not on someone’s private property), and the

4. The Catholic Benedictine Order, governed by the Rule of St. Benedict (sixth or seventh century A.D.), also had democratic elements, such as the election of the abbot by all the monks. Vitoria’s name is sometimes spelled “Vittoria” or “Victoria.”

Spanish had similar rights in the New World. If the Indians attempted to prevent the Spanish from engaging in free trade, then the Spanish should peacefully attempt to reason with them. Only if the Indians used force would the Spanish be allowed to use force, “it being lawful to repel force with force.”⁵

Vitoria also argued for a duty of humanitarian intervention, because “innocent folk there” were victimized by the Aztecs’ “sacrifice of innocent people or the killing in other ways of uncondemned people for cannibalistic purposes.” The principle of humanitarian intervention against human sacrifice and other atrocious crimes against humanity was not limited to Spaniards and Aztecs, but rather was universally applicable.

While Spanish title in the New World could be legitimately defended, according to Vitoria, Spain’s subsequent abuses of the Indians could not. As Vitoria put it, “I fear measures were adopted in excess of what is allowed by human and divine law.” He wrote on another occasion that the pillage of the Indians had been “despicable,” and the Indians had the right to use defensive violence against the Spaniards who were robbing them.

Vitoria produced a follow-up treatise, commonly known as *On the Law of War*, examining the lawfulness of Spanish warfare in the New World, as measured by international legal standards of war. The treatise explained various reasons why personal and national self-defense are lawful. One reason is that a contrary rule would put the world in “utter misery, if oppressors and robbers and plunderers could with impunity commit their crimes and oppress the good and innocent, and these latter could not in turn retaliate upon them.”

His “first proposition” was this:

Any one, even a private person, can accept and wage a defensive war. This is shown by the fact that force may be repelled by force. Hence, any one can make this kind of war, without authority from any one else, for the defense not only of his person, but also of his property and goods.

From the first proposition about personal self-defense, Vitoria derived his second proposition: “Every state has authority to declare war and to make war” in self-defense. State self-defense is broader than personal self-defense, because personal self-defense is limited to immediate response to an attack, whereas a state may act to redress wrongs from the recent past.

The personal right to self-defense was likewise used to declare humanitarian restrictions on war. Vitoria examined whether, in warfare between nations, it is lawful to deliberately kill innocent noncombatants. He explained such killings could not be just, “because it is certain that innocent folk may defend themselves against any who try to kill them.” Because self-defense by innocents is just, the killing of innocents is unjust. “Hence it follows that even in war with Turks it is not allowable to kill children. This is clear because they are innocent. Aye, and the same holds with regard to the women of unbelievers.”

Vitoria thus held that international law protected everyone, not just Christians, because the basic moral principles that underpinned international law also applied globally. He was likewise at the forefront in insisting that the same

5. For the Roman law principle that Vitoria quoted, see Chapter 2.

moral rules that applied to ordinary individuals also applied to the great and the powerful, including governments. Vitoria was the world's most renowned scholar urging humanitarian limits on war. The moral principle he used to derive those humanitarian limits was the personal right of self-defense.

In other writings, Vitoria directly connected the right of self-defense to a right of defense against tyranny—either in a personal or in a political context. Thus, a child has a right of self-defense against his own father if the father tried to kill him. Analogously, a subject may defend himself against a murderous king; and people may even defend themselves against an evil pope. Likewise, innocent Indians or Muslims may defend themselves against unjust attacks by Christians.

2. Francisco Suárez

Francisco Suárez (1548-1617) was appointed to a chair in philosophy at the University of Segovia at the age of 23. During his career, he taught at Salamanca, in Rome, and at the University of Coimbra (in Portugal). Suárez wrote 14 books on theological, metaphysical, and political subjects, and was widely recognized as one of the preeminent scholars of his age, and one of the founders of international law.

Self-defense is “the greatest of rights,” wrote Suárez. It was a right that no government could abolish, because self-defense is part of natural law. The irrevocable right of self-defense has many important implications for civil liberty. A subject's right to resist a manifestly unjust law, such as a bill of attainder,⁶ is based on the right of self-defense.

Similarly, as a last resort, an individual subject may kill a tyrant, because of the subject's inherent right of self-defense, by “the authority of God, Who has granted to every man, through the natural law, the right to defend himself and his state from the violence inflicted by such a tyrant.”

Unlike some moderns, Suárez did not assume that “the state” was identical to “the government.” Rather, the state itself could exercise its right of “self-defense” to depose violently a tyrannical king, because of “natural law, which renders it licit to repel force with force.” The principle that “the state” had the right to use force to remove a tyrannical government was consistent with Suárez's principle that a prince had just power only if the power were bestowed by the people.

Like the other founders of international law, Suárez paid particular attention to the laws of war. The legitimacy of state warfare is, according to Suárez, derivative of the personal right of self-defense, and the derivation shows why limits could be set on warfare. Armed self-defense against a person who is trying violently to take one's land is “not really aggression, but defence of one's legal possession.” The same principle applies to national defense—along with the corollary (from Roman law) that the personal or national actions be “waged with a moderation of defence which is blameless” (that is, not grossly disproportionate to the attack).

6. A legislative act declaring a person guilty of treason or another crime without a trial.

For the individual and for the state, defense against an aggressor is not only a right, but a duty (such as for a parent, who is obliged to defend his child):

Secondly, I hold that defensive war not only is permitted, but sometimes is even commanded. This first part of this proposition . . . holds true not only for public officials, but also for private individuals, since all laws allow the repelling of force with force. The reason supporting it is that the right of self-defence is natural and necessary. Whence the second part of our proposition is easily proved. For self-defence may sometimes be prescribed [i.e., mandated], at least in accordance with the order of charity. . . . The same is true of the defence of the state, especially if such defence is an official duty. . . .

Francisco Suárez, *De Triplici Virtute Theologica, Fide, Spe, et Charitate* (1621) (On the Three Theological Virtues, Faith, Hope, and Charity), in 2 Selections from Three Works of Francisco Suárez, S.J. 802-03 (Gwladys L. Williams ed., 1944) (Disputation 13, §1.4).

While Suárez (like de Vitoria) was a member of a Catholic religious order, he was extremely influential on Protestant writers. The great British historian Lord Acton wrote that “the greater part of the political ideas” of John Milton and John Locke “may be found in the ponderous Latin of Jesuits who were subjects of the Spanish Crown . . .” such as Suárez. John Dalberg Acton, *The History of Freedom and Other Essays* 82 (1907). Suárez was also a major influence on Grotius, who is discussed next.

3. Hugo Grotius

The Dutch scholar Hugo Grotius (1583-1645) was a child prodigy who enrolled at the University of Leiden when he was 11 years old. Hailed as “the miracle of Holland,” he wrote more than 50 books, and “may well have been the best-read man of his generation in Europe.” David B. Bederman, *Reception of the Classical Tradition in International Law: Grotius’ De Jure Belli Ac Pacis*, 10 *Emory Int’l L. Rev.* 1, 4-6 (1996).

As the 2005 edition of his 1625 masterpiece *The Rights of War and Peace* puts it, the book has “commonly been seen as the classic work in modern public international law, laying the foundation for a universal code of law.” As international legal scholar George B. Davis wrote in 1900, it was “the first authoritative treatise upon the law of nations, as that term is now understood.” George B. Davis, *The Elements of International Law* 15 (2d ed. 1900). “It was at once perceived to be a work of standard and permanent value, of the first authority upon the subject of which it treats,” said Davis. Or as a 1795 writer observed, “in about sixty years from the time of publication, it was universally established in Christendom as the true fountain-head of the European Law of Nations.” Robert Ward, *An Enquiry into the Foundation of the Law of Nations in Europe from the Time of the Greeks and Romans to the Age of Grotius* 374-75 (Lawbook Exch. 2005) (1795). In short, “it would be hard to imagine any work more central to the intellectual world of the Enlightenment,” writes Richard Tuck, in his Introduction to the 2005 edition of Grotius. Richard Tuck, *Introduction to 1 Hugo Grotius, The Rights of War and Peace* at xi (Richard Tuck ed., Liberty

Fund 2005) (reprint of 1737 English translation by John Morrice of the 1724 annotated French translation by Jean Barbeyrac) (1625).⁷

During the sixteenth century, there were 26 editions of the original Latin text, as well as translations into French, English, and Dutch. The next century saw 20 Latin editions, and multiple editions in French, English, Dutch, German, Russian, and Italian.

The purpose of *The Rights of War and Peace* was to civilize warfare, especially to protect noncombatants from attack. To do so, Grotius started with the right of personal defense. As Grotius observed, even human babies, like animals, have an instinct to defend themselves. Moreover, self-defense was essential to social harmony, for if people were prevented from using force against others who were attempting to take property by force, then “human Society and Commerce would necessarily be dissolved.”

After listing numerous examples from Roman law and the Bible in which personal self-defense and just war were approved, Grotius declared that “[b]y the Law of Nature then, which may also be called the Law of Nations,” some forms of national warfare were lawful, as was personal warfare in self-defense. The rationale for both was succinctly expressed in the Roman maxim: “It is allowed to Repel Force by Force.” Examples of personal and national use of force were woven together seamlessly, for the same moral principles applied to both.

Grotius classified “Private War” (which was justifiable individual self-defense) and “Public War” (which was justifiable government-led collective self-defense) as two types of the same thing. Regarding personal self-defense:

We have before observed, that if a Man is assaulted in such a Manner, that his Life shall appear in inevitable Danger, he may not only make *War* upon, but very justly *destroy* the *Aggressor*; and from this Instance which every one must allow us, it appears that such a *private War* may be *just* and *lawful*. It is to be observed, that this *Right of Self-Defence*, arises directly and immediately from the Care of our own Preservation, which *Nature* recommends to every one. . . .

Relying on the Scholastic philosopher Thomas Aquinas (Chapter 2), Grotius explained that defensive violence is based on the intention of self-preservation, not the purpose of killing another.

Self-defense is also appropriate not just to preserve life, but also to prevent the loss of a limb or member, rape, and robbery: “I may shoot that Man who is making off with my Effects, if there’s no other Method of my recovering them.” To this discussion, Jean Barbeyrac — Grotius’s most influential translator and annotator — added the footnote: “In Reality, the Care of defending one’s Life is a Thing to which we are obliged, not a bare Permission.” (The Barbeyrac edition was the standard in American colonies. See Chapter 2 for John Adams’s lengthy verbatim reliance on Barbeyrac in a newspaper essay arguing for the American right of revolution. See the Pufendorf section, *infra*, for more on the influence of Barbeyrac.)

7. The Liberty Fund’s [Online Library of Liberty](#) offers many free, modern editions of classic works of liberty, including this text.

“What we have hitherto said, concerning the Right of defending our *Persons* and *Estates*, principally regards private Wars; but we may likewise apply it to publick Wars, with some Difference,” Grotius explained. Grotius then noted various differences; for example, personal wars (that is, individual violence) are only for the purpose of self-defense, whereas public wars (those undertaken by a nation) could have the additional purposes “of revenging and punishing Injuries.”

The Italian writer Alberico Gentili (1552-1608) had argued that a nation could attack another nation if the former feared the growing power of the latter. Grotius called Gentili’s doctrine “abhorrent to every principle of equity.” Grotius’s counter-argument was the national self-defense restrictions that come directly from the rules of personal self-defense.

Grotius also wrote that victorious warriors must not abuse the bodies of the dead. As Barbeyrac elaborated, there is no legitimate purpose in mutilating the dead, because “this is of no Use either for our Defence, the Support of our Rights, or in Word for any lawful End of War.”

While Grotius approved only in rare circumstances of a people carrying out a revolution against an oppressive government, he did argue that other nations have a right and a moral obligation to invade and liberate nations from domestic tyranny. Barbeyrac’s footnotes in these sections, and elsewhere in the book, argued for a much broader right of revolution.

Several years before writing his masterpiece, Grotius wrote *The Free Sea* (*Mare Librum*), which was a foundational book of maritime law, and hence of international law itself. In *The Free Sea*, he also argued that natural law is immutable, and cannot be overturned by governments. Suárez had made the same point explicitly, and the principle is implicit in most of the other Classical founders of international law.

4. Samuel Pufendorf

The Swedish scholar Samuel Pufendorf (1632-94) was the first person ever appointed as a Professor of the Law of Nations, at the University of Heidelberg. In fact the position was created explicitly for the purpose of allowing Pufendorf to teach Grotius’s text. Pufendorf also served as a counselor to the King of Sweden and the King of Prussia. In 1672 he published the eight-volume magnum opus *Of the Law of Nature and Nations*. It was instantly recognized as a work of tremendous importance, and was published in many editions all over Europe. “[T]he two works [of Grotius and Pufendorf] together quickly became the equivalent of an encyclopedia of moral and political thought for Enlightenment Europe.” Richard Tuck, *Introduction* to the 2005 edition of Grotius, *supra*.

Pufendorf advanced the theories of Grotius, while also incorporating ideas of later philosophers such as John Locke and Thomas Hobbes. He was not the first to argue that international law applied beyond the relations of Christian nations with each other, but his overriding concern for the common human community made the theme especially important in his book. Pufendorf (born in the middle of Europe’s devastating Thirty Years War) was, like Grotius, greatly interested in restraining warfare, but Pufendorf painted on a broader canvas.

As he pondered how the global community might live together more peaceably, he also considered how individuals could live together successfully in society. Repeatedly he argued that the right, duty, and practice of self-defense — at the personal level and at the national level — are essential for the preservation of society, both locally and globally.

Pufendorf’s treatise grew even more influential after the 1706-07 publication of a French translation by the French lawyer Jean Barbeyrac (1674-1744), which was supplemented by Barbeyrac’s own copious notes and commentary. Barbeyrac, who was a Professor of Law at Groningen University, in the Netherlands, and a Member of the Royal Academy of Sciences in Berlin, also produced an annotated French version of Grotius in 1724. Grotius and Pufendorf had already been translated into many languages in dozens of editions. Now, the Barbeyrac editions themselves were also translated all over Europe and soon became the most popular editions. Grotius and Pufendorf, as translated and annotated by Barbeyrac, remained the preeminent authorities on international law for centuries afterward.

Pufendorf followed Thomas Hobbes’s theory that states are imbued with the same qualities as are individual persons and are governed by the same precepts of natural law. “Law of nature” was the term used when referring to individuals, and this same law, when applied to states, was called the “law of nations.”

In contrast to the pessimistic spirit of Hobbes, Pufendorf thought that humans had a natural inclination toward peaceful cooperation with each other: “Tis true, Man was created for the maintaining of Peace with his Fellows; and all the Laws of Nature, which bear a Regard to other Men, do primarily tend towards the Constitution and Preservation of this universal safety and Quiet.”

Self-defense is an essential foundation of society, for if people did not defend themselves, then it would be impossible for people to live together in a society. Not to use forceful defense when necessary would make “honest Men” into “a ready Prey to Villains.” “So that, upon the whole to banish *Self-defence* though pursued by *Force*, would be so far from promoting the Peace, that it would rather contribute to the Ruin and Destruction of Mankind.”

Pufendorf denied “that the *Law of Nature*, which was instituted for a Man’s Security in the World, should favor so absurd a Peace as must necessarily cause his present Destruction, and would in fine produce any Thing sooner than *Sociable* life.” Likewise:

But what Possibility is there of my living at Peace with him who hurts and injures me, since Nature has implanted in every Man’s Breast so tender a concern for himself, and for what he possesses, that he cannot but apply all Means to resist and repel him, who either respect attempts to wrong him.

Pufendorf explained that there is much broader latitude for self-defense in a state of nature⁸ than in civil society; preemptive self-defense is disfavored in society, but not in a state of nature.

8. A “state of nature” is *not* the same as “natural law.” The “state of nature” is the philosophical term for the conditions that exist before people choose to enter into society together and to create a government. “Natural law” is usually used by the Classical international law writers to mean a set of principles that are found in all human societies.

However, Pufendorf continued, even civil society does not forbid imminent preemption in circumstances in which the victim has no opportunity to warn the authorities first: “For Example, if a Man is making towards me with a naked Sword and with full Signification of his intentions toward me, and I at the same time have a Gun in my Hand, I may fairly discharge it at him whilst he is at a distance. . . .” Similarly, a man armed with a long gun may shoot an attacker who was carrying a pistol, even though the attacker is not yet within range to use his pistol.

Making the same point as Justice Oliver Wendell Holmes, who in 1921 would write that “detached reflection is not required and cannot be demanded in the presence of an uplifted knife,” *Brown v. United States*, 256 U.S. 335, 343 (1921) (Chapter 6), Pufendorf wrote that “it is scarce possible that a Man under so terrible Apprehension should be so exact in considering and discovering all Ways of Escape, as he who being set out of the danger can sedately deliberate on the Case.” Thus, while a person should safely retreat rather than use deadly force, Pufendorf recognized that safe retreat is usually impossible. Nor is there any requirement that a defender use arms that are not more powerful than the arms of the aggressor:

As if the Aggressors were so generous, as constantly to give notice to the other Party of their Design, and of the Arms they purpos’d to make use of; that they might have the Leisure to furnish themselves in like manner for the Combat. Or if these Rencounters⁹ we were to act on our Defence by the strict Rules of the common Sword Plays and Tryals of Skill, where the Champions and their Weapons are nicely match’d and measur’d for our better Diversion.

Self-defense, using lethal force if necessary, is permissible against a non-deadly aggressor who would maim the victim, or who would inflict other less-than-lethal injuries.

For what an age of Torments should I undergo, if another Man were allow’d perpetually to lay upon me only with moderate Blows, whose Malice I could not otherwise stop or repel, than by compassing his Death. Or if a Neighbour were continually to infest me with Incursions and Ravages upon my Lands and Possessions, whilst I could not lawfully kill him, in my Attempts to beat him off? For since the chief Aim of every human *Socialness* is the Safety of every Person, we ought not to fancy in it such Laws, as would make every good and honest Man of necessity miserable, as often as any wicked Varlet¹⁰ should please to violate the Law of Nature against him. And it would be highly absurd to establish Society amongst Men on so destructive a Bottom as the Necessity of enduring Wrongs.

(See Gratian’s treatise in Chapter 2 for some examples.) Natural law includes certain natural rights, such as the right to the fruits of one’s labor. In the Classical view, the reason why people choose to leave a state of nature, and enter into society, and create a government, is that society and government are the organizations by which people can collectively protect their natural rights. This view is expressed in paragraph 2 of the U.S. Declaration of Independence (Chapter 3).

9. [An unexpected and hostile meeting. — Eds.]

10. [A rascal. — Eds.]

Lethal force in self-defense is also permissible to prevent rape or assault. It was also permitted to prevent robbery: “[I]t is clearly evidence that the Security and Peace of Society and of Mankind could hardly subsist, if a Liberty were not granted to repel by the most violent Courses, those who come to pillage our Goods. . . .”

What if one person attacks another’s *honor*—such as by boxing his ears, a degrading, but not physically dangerous affront? Pufendorf acknowledged that in a state of nature there is a limitless right to redress any attack, but he insisted that in a civil society, the proper recourse in case of an insult or an attack on honor is to be found in resort to the courts, not in deadly force. It should be remembered that Pufendorf was writing at a time when the educated gentlemen of Europe often killed each other in duels because one man had insulted another’s honor. Pufendorf’s strict rule denying that deadly force could be used in defense of honor was one aspect of his broader view that self-defense was properly made for the repose, safety, and sociability of society.

Pufendorf also rejected the view that self-defense could be forbidden because it is a form of punishing criminals, and the prerogative of punishment belongs exclusively to the state. Pufendorf agreed that genuine punishment—for retribution, after a crime had been completed—was, in a civil society, exclusively a state function. “But Defence is a thing of more ancient date than any Civil Command. . . .” Accordingly, no state could legitimately forbid self-defense.

The chapter “Of the Right of War” began, significantly, with a detailed restatement of the natural right of personal self-defense. Then, following the methodology of the other Classical international law scholars, Pufendorf extrapolated from the fundamental principles of self-defense the broader rules of national warfare, including the requirement of Just Cause, prohibitions on attacks on noncombatants, prohibitions on the execution of prisoners, prohibition on wanton destruction of property, limitations on what spoils might be taken in war, and similar humanitarian restrictions.

Pufendorf had argued that a victim has a right to defend himself against an aggressor even if the aggressor might not have a fully formed malicious intent (such as if the aggressor were insane). Barbeyrac agreed, and applied the example specifically to a prince, who through self-indulgence in his own violent fits of anger, or through excessive drink, formed a transient but passionate determination to take a subject’s life. Barbeyrac held that “we have as much Right to defend ourselves against him, as if he acted in cold Blood.” He suggested that the behavior of future rulers would be improved if subjects did not meekly submit to a ruler’s murderous fits of temper.

More generally, Pufendorf described the right of resisting a tyrant as another application of the right of self-defense. If the ruler makes himself into a manifest danger to the people, then “a People may defend themselves against the unjust Violence of the Prince.”

Pufendorf acknowledged the argument that, in a state, it might be illegal for anyone to call “that the Subjects have to take up Arms against the chief Magistrate; since no Mortal can pretend to have a Jurisdiction” over a sovereign. Pufendorf denied that self-defense—including collective self-defense against barbarous domestic tyranny—is dependent on either jurisdiction or a lawful call: “As if Defence were the Effect of Jurisdiction! Or, as if he who sets himself to

keep off an unjust Violence, which threatens his Life, has any more need of a particular Call, than he who is about to fence against Hunger and Thirst with Meat and Drink!”

Pufendorf repeated with approval Grotius’s analysis that a people would never enter into a social compact if the price were to surrender their right of resisting an unjust and violent government. It would be better to suffer the “Fighting and Contention” of a state of nature than to face “certain Death” because they had given up the right to “oppose by Arms the unjust Violence of their Superiors.”

Barbeyrac added that if a government attempts to hinder people from the peaceful exercise of religion according to personal conscience, then “the People have as natural and unquestionable a Right to defend the Religion by Force of Arms . . . as to defend their Lives, their Estates, and Liberties. . . .”

Likewise, at the conclusion of Pufendorf’s chapter on self-defense, Barbeyrac included a long note on a subject that he chided Pufendorf for omitting: John Locke’s theory of the right to resistance against a government that usurps powers that had never been granted by the people — a theory with which Barbeyrac plainly agreed. Barbeyrac quoted at length, and with great approval, John Locke’s explication that a tyrant is in a state of war with the people. (See Chapter 2.) He echoed the point made by Cicero, St. Augustine, and Philo of Alexandria that robbery is robbery, regardless of whether the perpetrator is a small gang leader with a few followers, or a tyrant with a standing army. (See Chapter 2.)

The American revolutionaries considered Barbeyrac, Pufendorf, and Grotius to be part of a seamless fabric of humanitarian philosophy that justified violent resistance to Great Britain as legitimate self-defense against the British government’s efforts to destroy the orderly peace of free and civil society.

5. Emmerich de Vattel

Along with *Of the Law of Nature and Nations* by Pufendorf, *The Law of Nations*, by the Swiss scholar Emmerich de Vattel, was considered one of the two great books founded on the work of Grotius. Vattel (1714-67) was notably influential on the American Founders, among others.

The full title of Vattel’s book stated the connection between natural and international law: *The Law of Nations; or, Principles of the Law of Nature, applied to the Conduct and Affairs of Nations and Sovereigns* (1758).¹¹

Vattel agreed with other scholars that the right of personal self-defense is the foundation of the national right to engage in defensive war. Self-defense is both a right and a duty: “Self-preservation is not only a natural right, but an obligation imposed by nature, and no man can entirely and absolutely renounce it.”

11. *Droit des gens; ou, Principes de la loi naturelle appliqués à la conduite et aux affaires des nations et des souverains.*

The right of self-defense applies whenever the government does not protect an individual, and it includes a right to defend oneself against rape or robbery, not merely against attempted homicide:

[O]n all these occasions where the public authority cannot lend us its assistance, we resume our original and natural right of self-defence. Thus a traveler may, without hesitation, kill the robber who attacks him on the highway; because it would, at that moment, be in vain for him to implore the protection of the laws and of the magistrate. Thus a chaste virgin would be praised for taking away the life of a brutal ravisher who attempted to force her to his desires.

Also: “A subject may repel the violence of a fellow-citizen when the magistrate’s assistance is not at hand; and with much greater reason may he defend himself against the unexpected attacks of foreigners.” In order to prevent dueling, Vattel urged enforcement of the custom that only military men and nobles should be allowed to wear swords in public.

Vattel wrote that the right of revolution against tyranny is also an extension of the right of self-defense; like an ordinary criminal, a tyrant “is no better than a public enemy against whom the nation may and ought to defend itself.” A prince who kills innocent persons “is no longer to be considered in any other light than that of an unjust and outrageous enemy, against whom his people are allowed to defend themselves.” (Compare to the various sources in Chapters 2 through 4 arguing that there is no essential difference between a lone criminal and a criminal government.)

Vattel agreed with the consensus of Grotius, Pufendorf, and the Spanish humanitarians, that there is a right and duty of humanitarian intervention. Vattel formulated the duty in terms of self-defense: When a prince’s tyranny gives “his subjects a legal right to resist him . . . in their own defence,” then every other nation should legitimately come to the aid of the people, “for, when a people, from good reasons take up arms against an oppressor, it is but an act of justice and generosity to assist brave men in the defence of their liberties.” And, “[a]s to those monsters who, under the title of sovereigns, render themselves the scourges and horror of the human race, they are savage beasts, whom every brave man may justly exterminate from the face of the earth.” United States Senator Henry Clay, in his famous 1818 oration “[The Emancipation of South America](#),” cited Vattel as authority for U.S. support for the South American wars of national liberation against Spanish colonialism.¹²

12.

I maintain that an oppressed people are authorized, whenever they can, to rise and break their fetters. This was the great principle of the English Revolution. It was the great principle of our own. Vattel, if authority were wanting, expressly supports this right. We must pass sentence of condemnation upon the founders of our liberty, say that you were rebels, traitors, and that we are at this moment legislating without competent powers, before we can condemn the cause of Spanish America. . . . Spanish America for centuries has been doomed to the practical effects of an odious tyranny. If we were justified, she is more than justified.

Henry Clay, *The Emancipation of South America*, in 4 *The World’s Famous Orations* 82-83 (1906).

The personal right of self-defense also showed why a protectorate may renounce its allegiance to a sovereign that fails to provide protection. When Austria failed in its obligation to protect Lucerne, Austria lost its sovereignty over Lucerne, and so Lucerne allied with the Swiss cantons. Austria complained to the Holy Roman Emperor, but the people of Lucerne retorted “that they had used the natural right common to all men, by which every one is permitted to endeavor to procure his own safety when he is abandoned by those who are obliged to grant him assistance.”

Vattel pointed out that the town of Zug had been attacked and the duke of Austria had refused to defend it. (He was busy hunting with hawks and would not be interrupted.) Zurich, too, had been attacked, and the Holy Roman Emperor Charles IV had failed to protect it. Vattel concluded that both Zug and Zurich were justified in asserting their natural right to self-protection and in joining the Swiss confederation. Similar reasoning justified the decision of other Swiss cantons to separate themselves from the Austrians, who never protected them.

6. Jean-Jacques Burlamaqui

Jean-Jacques Burlamaqui (1694-1748) was Professor of Natural Law at the Academy of Geneva. His treatise *The Principles of Natural and Politic Law* was translated into six languages (besides the original French) in 60 editions.

His vision of constitutionalism had a major influence on the American Founders. For example, Burlamaqui’s understanding of checks and balances was much more sophisticated and practical than that of Montesquieu,¹³ in part because Burlamaqui’s theory contained the seed of judicial review. He was frequently quoted or paraphrased, sometimes with attribution and sometimes not, in political sermons during the pre-revolutionary era.

He was the first philosopher to articulate the quest for happiness as a natural human right, a principle that Thomas Jefferson later restated in the Declaration of Independence. When Burlamaqui’s treatise affirmed the right of pursuing happiness, he stated the right as intimately connected to the right to arms: all men have a “right of endeavoring to provide for their safety and happiness, and of employing force and arms against those who declare themselves their enemies.”

The same principle that legitimates self-defense also provides the appropriate boundaries: “necessity can authorise us to have recourse to force against an unjust aggressor, so this same necessity should be the rule and measure of the harm we do him. . . .”

National self-defense is simply an extension, with appropriate modifications, of the right and duty of personal self-defense. Defensive war, both personal and national, is essential to the preservation of peaceful society; “otherwise the human species would become the victims of robbery and licentiousness: for the right of making war is, properly speaking, the most powerful means of maintaining peace.”

The right to collective self-defense against tyranny (a criminal government) is an application of the individual right of self-defense against a lone criminal:

13. Charles-Louis de Secondat, Baron de La Brède et de Montesquieu, [The Spirit of Laws](#) (1748).

“when the people are reduced to the last extremity, there is no difference between tyranny and robbery. The one gives no more right than the other, and we may lawfully oppose force to violence.” Thus, people have a right “to rise in arms” against “extreme abuse of sovereignty,” such as tyranny.

Burlamaqui agreed with the Englishman Algernon Sidney (*see* Chapter 2) that subjects are “not obliged to wait till the prince has entirely riveted their chains, and till he has put it out of their power to resist him.” Rather, they may initiate an armed revolt “when they find that all his [the prince’s] actions manifestly tend to oppress them, and that he is marching boldly on to the ruin of the state.”

Burlamaqui acknowledged that if the people have the power to revolt, they might misuse it, but the risk would be much less than the risk of allowing tyranny to flourish: “In fine, though the subjects might abuse the liberty which we grant them, yet less inconveniency would arise from this, than from allowing all to the sovereign, so as to let a whole nation perish, rather than grant it the power of checking the iniquity of its governors.”

Similarly, the fact that “every one has a natural right to take care of his preservation by all possible means” suggests that if “the state can no longer defend and protect the subjects, they . . . resume their original right of taking care of themselves, independently of the state, in the manner they think most proper.” Thus, whenever a state fails to protect one of its subjects from criminal attack, the subject has a right of self-defense.

In an international law application, the same principle proves that a sovereign has no authority to “oblige one of his towns or provinces to submit to another government.” Rather, the sovereign may, at most, withdraw his protection from the town or province, in which case the people of the town or province have a complete right of self-defense, and of independence if they can prevail in their self-defense.

Burlamaqui, like Vattel, supported a broad rule of humanitarian intervention to liberate the tyrannized people of another nation — provided that “the tyranny is risen to such a height, that the subjects themselves may lawfully take up arms, to shake off the yoke of the tyrant.” This principle is an extension of personal assistance in self-defense, for “Every man, as such, has a right to claim the assistance of other men when he is really in necessity.”

Burlamaqui acknowledged that the principle of humanitarian intervention is often misused. Nevertheless, the misuse of a good principle does not mean that the principle should be eliminated, any more than the misuse of weapons means that weapons should be prohibited: “the bad use of a thing, does not hinder it from being just. Pirates navigate the seas, and robbers wear swords, as well as other people.”

NOTES & QUESTIONS

1. Under the Classical view if a government purported to enact a law abolishing the right of self-defense (or constricting the right so that it becomes a practical nullity), that law would be considered void *ab initio*. Is the reasoning persuasive today?

2. Under the Classical view personal self-defense was a fundamental human right, essential to the foundation of international law and order. Is that view persuasive today? If so, why do you think contemporary international law sources (such as many of those *supra* Section A.2) reflect much less concern for individual self-defense than the Classical sources?
3. In a case from the post-World War II war crimes trials of the Japanese military dictatorship, *In re Hirota & Others*, 15 Ann. Dig. & Rep. of Pub. Int'l L. Cas. 356, 364 (Int'l Mil. Trib. for the Far East 1948) (no. 118, Tokyo trial), the court stated, "Any law, international or municipal, which prohibits recourse to force, is necessarily limited by the right of self-defense." Discussing the *Hirota* case, Professor Yoram Dinstein wrote, "This postulate [from *Hirota*] may have always been true in regard to domestic law, and it is currently accurate also in respect of international law. . . . [T]he right of self-defense will never be abolished in the relations between flesh-and-blood human beings. . . ." Yoram Dinstein, *War, Aggression, and Self-Defense* 181 (2d ed. 1994). Is Dinstein right? Would a statute purporting to abolish any right of self-defense be only a "pretend law"? (Chapter 3.D.5)
4. The works of Classical international law discussed here are not binding authority, so their appeal will be purely persuasive. Do you find them so? Are some ideas more persuasive than others?
5. The Classical authors state repeatedly that the defensive claims of nations are grounded analytically on the right to individual self-defense. Do you think that individual self-defense is more fundamental than the national defense claim of states? Why? Which writers and documents featured in this chapter agree with you? What about individual defense against tyranny? How does deciding when defense against the state is legitimate differ from deciding whether defense against another individual is legitimate?
6. Consider Grotius's statement that self-defense is essential to social harmony, that without it, "human Society and Commerce would necessarily be dissolved." Pufendorf and Burlamaqui also agreed that human beings are by nature social, and that a right of self-defense is essential for society to exist. In the modern American gun debate, guns and self-defense are often extolled or derided as examples of the American ideal of rugged individualism. Grotius and Pufendorf provide a different perspective on self-defense, advancing it as a practical foundation of humans being able to live together in society. Do you find this convincing?
7. If the Classical view on the fundamental status of self-defense is correct, then does a right to firearm ownership follow as an incident of that right? Does private gun ownership promote social harmony? Can you imagine a harmonious society where the state had an absolute monopoly on legitimate violence and all types of private self-defense were outlawed? Would you prefer that society to the modern United States? Are there any

examples of such societies that you would consider good alternatives to the armed society of the United States today?

8. Pufendorf warned that prohibiting self-defense would cause honest men to fall prey to villains. Does a robust legal doctrine of self-defense give rise to the same risk, in different ways? For example, after a violent death, how are we to be certain who was the villain and who was the lawful self-defender if only one person survives?

Does the risk of false claims of self-defense suggest that the law should be skeptical of, or entirely reject, the concept of legal self-defense? It is not uncommon in our legal system for courts and juries to make decisions based on imperfect information—such as unrebutted, self-interested testimony of lone witnesses. Is it possible to ferret out truth about self-defense claims, even without eyewitnesses, using circumstantial evidence?

Consider the costs and benefits of a duty-to-retreat rule versus a no-retreat rule. Does the answer depend on whether you focus on the individual victim or society at large? Would you give victims the benefit of the doubt or hold them to a more exacting standard? For more, see Chapter 6. G.

9. Do you agree that there is a distinction between self-defense and punishment? The Classical view would consider violence against an imminent threat to be a necessary preventative measure, and not to be punishment. Do you agree? Isn't a criminal who is shot in self-defense just as dead as a criminal who is executed after a trial and appeals with due process? How much does it matter that the convicted criminal is executed after a long and deliberate public process, with no claim that the execution is necessary to save a particular innocent life?
10. Consider Barbeyrac's conclusion that the behavior of future rulers would be improved if subjects did not meekly submit to a despotic ruler's murderous fits of temper. Is this a deterrence argument? Deterrence of future violators is one of the traditional functions of punishment. Is every form of deterrence a form of punishment?
11. Do you agree with Grotius that a people would never enter into a social compact if the price were to surrender their right of resisting an unjust and violent government? If given the choice at the start of a new political system, would you give up that right? Under what conditions? Does it depend on how bad you perceive the alternative "state of nature" to be? What if during an agreed "trial period," the new social compact produced order and prosperity? What about the generations that come later you, should they also have a trial period?
12. Pufendorf and Barbeyrac favor broad rights of legitimate violence in response to state tyranny. For example, citizens facing a tyrant's oppression may resist before oppression becomes complete; they need not wait for their chains to be affixed. Is there a stronger justification for violence against a

state that has trampled a fundamental right, such as the free exercise of religion, or against a lone criminal who is perpetrating deadly violence? Why?

13. Vattel, Burlamaqui, and others argue that the self-defense rights of nations can be derived from principles of personal self-defense. Vattel also writes that personal self-defense is justified only against imminent threats where the state is powerless to intervene. Does this rule of imminence place greater restrictions on individual self-defense than on national defense? If defense of nations is derivative of personal self-defense, can one justify intricately planned military offensives where there is no imminent threat and negotiation or nonviolent sanctions are still available? Are all such offensives philosophically or morally repugnant? Are they automatically more suspect than private self-defense against imminent threats?
14. Note Vattel's claim of equivalence between self-defense and resistance to tyranny. Are the circumstances that would justify violent resistance to tyranny more or less complicated than the circumstance that would justify self-defense? Consider, for example, Vattel's reference to the prince who kills innocents. What if an American official caused innocents to be killed while prosecuting the war on terror? What if some of those innocents were American citizens? Does it matter if the innocents were killed as primary targets, rather than being killed as part of an operation against a known terrorist (e.g., a bomb dropped on a terrorist leader's home, killing the terrorist as well as members of his family)? Consider Thomas Aquinas's theory of the principle of double effect (Chapter 2).
15. What do you think of Vattel's assertion that self-defense is not just a privilege or prerogative, but rather a *duty* that it is immoral to renounce. To whom is this duty owed? If a person decides to eschew violence and sacrifice her life instead of fighting back, isn't that solely her affair? Or does the community have a claim on her decision? What would be the substance of the community's claim? Is this obligation necessarily owed to other people? Is it plausibly considered as a duty owed to God?
16. Burlamaqui acknowledged that if the people have the power to revolt, they might misuse it. However, he argued that this risk would be much less than the risk of allowing tyranny to flourish. Is he right? Does the answer depend on how much one values order?

Would you be willing to live with some degree of tyranny or oppression if the alternative were large-scale violence or civil war? Is it inevitable that different people have different estimates of the tipping point where violent resistance becomes necessary? Burlamaqui says that people need not wait until their chains are fully locked onto them. Should violent resistance to tyranny be the last option? Or will waiting too long make resistance impossible? How should a polity determine when that point has come? Consider the materials in Chapter 3, such as Patrick Henry's speech "The War Inevitable," and the Declaration of Independence, both of which argue that resistance is justified once the government makes it clear that tyranny is the objective and the peaceful petitions for liberty would be futile.

17. De Vitoria strongly believed in free trade as a human right, and said that a Frenchman had a right to travel to Spain to engage in trade. Similarly, a Spaniard had a right to travel to the Aztec Empire in Mexico to engage in trade there. Do you agree that free trade is a human right? If it is, can the would-be traveler use force as a last resort against attempts to exclude him?
18. The Classical Founders of international law considered personal self-defense to be the most fundamental of all human rights. Some modern international law agreements, such as the 2001 U.N. Programme of Action, the Nairobi Protocol, and CIFTA (*supra* Section A.2) do not acknowledge any personal right of self-defense. Why are some aspects of modern international law so different from the founding principles of international law?

C. *Resistance to Genocide*

Does international law guarantee the right of people to resist genocide? If there is such a right, does that right trump otherwise valid laws that prevent the acquisition or use of arms?

Classical international law, discussed *supra* Section B, supports a general right to resist all forms of tyranny, but does not specifically address genocide. In this Section C, we consider the genocide issue in light of the [Convention on the Prevention and Punishment of the Crime of Genocide](#), the Universal Declaration of Human Rights, and other modern human rights documents. The two essays in this section discuss the implications of these documents. The first essay argues that modern international law recognizes a right to resist any genocide. The second essay counters that resistance is lawful if the genocide is racial, but not if the genocide victims are selected on a nonracial basis.

**Convention on the Prevention and Punishment of the
Crime of Genocide, opened for signature Dec. 9, 1948**
102 Stat. 3045, 78 U.N.T.S. 277

Art. 1. The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

David B. Kopel, Paul Gallant, & Joanne D. Eisen,
[Is Resisting Genocide a Human Right?](#)
81 Notre Dame L. Rev. 1275 (2006)

... A. THE GENOCIDE CONVENTION ...

... Neither the text of the Genocide Convention nor the drafting history provide[s] guidance about the scope of the legal obligation to prevent

genocide. However, international law is clear that the duty to prevent is real, and is entirely distinct from the duty to punish. *See, e.g., Application of the Convention of the Crime of Genocide* (Bosn. & Herz. v. Yugo. (Serb. & Mont.)), 1993 I.C.J. 325, 443-44 (Sept. 13) (*separate opinion of Judge Lauterpacht*); *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (Bosn. & Herz. v. Yugo. (Serb. & Mont.)), 2001 I.C.J. 572 (Sept. 10).

The Genocide Convention prohibits more than the direct killing of humans. Other actions — if undertaken with genocidal intent — can constitute genocide. For example, rape would not normally be genocide, but if a political or military commander promoted the widespread rape of a civilian population — with the intent of preventing normal reproduction by that population — then the pattern of rape could constitute genocide. *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgment 2, ¶ 731 (Sept. 2, 1998).

Similarly, many governments do not provide their citizens with minimal food rations or medical care. Such omissions are not genocide. On the other hand, if a government eliminated food rations to a particular group but not to other groups, and the change in rations policy was undertaken with the intent of exterminating the particular group by starvation, then the government’s termination of food aid could constitute genocide. *United States of America v. von Weizaecker* (The Ministeries Case), 14 T.W.C. 314, 557-58 (1948).

Similarly, under normal conditions, governments have extensive authority over arms possession within their borders. But to the extent that a government enacted or applied arms control laws for the purpose of facilitating genocide, then the government’s actions would constitute genocide.

Notably, the Genocide Convention abrogates the Head of State immunity which applies in most other applications of international law. Genocide Convention, art. IV. . . . Given that the Genocide Convention explicitly abrogates one of the most well established principles of general international law, it would hardly be surprising that the Convention also abrogates, by implication, some forms of ordinary internal state authority, such as the power to set standards for food rations, medical rations, or arms possession.

B. THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND OTHER HUMAN RIGHTS INSTRUMENTS

Another international law source of the right to resist genocide is the Universal Declaration of Human Rights, which was adopted by the United Nations in 1948. The Universal Declaration never explicitly mentions “genocide,” but a right to resist genocide is an inescapable implication of the rights, which the Declaration does affirm.

First, the Declaration affirms the right to life. Of course the right to life is recognized not just by the Universal Declaration, but also by several other international human rights instruments.

Second, the Declaration affirms the right to personal security. The right of self-defense is implicit in the right of personal security, and is explicitly

recognized by, inter alia, the European Convention on Human Rights and by the International Criminal Court. [Rome Statute of the International Criminal Court art. 31](#), July 17, 1998, 2187 United Nations T.S. 90.

The preamble of the Universal Declaration of Human Rights recognizes a right of rebellion as a last resort: “Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law. . . .” The *travaux* (drafting history) of the Universal Declaration clearly show that the preamble was explicitly intended to recognize a preexisting human right to revolution against tyranny. Johannes Morsink, [The Universal Declaration of Human Rights: Origins, Drafting & Intent 307-12](#) (1999).

Finally, Article 8 of the Universal Declaration states that “[e]veryone has the right to an effective remedy.” The Universal Declaration therefore comports with the long-established common law rule that there can be no right without a remedy. *Cf. Bivens v. Six Unknown Named Agents of the Fed. Bureau of Narcotics*, 403 U.S. 388, 392 (1971) (“[W]here federally protected rights have been invaded, it has been the rule from the beginning that courts would be alert to adjust their remedies so as to grant the necessary relief.” (quoting *Bell v. Hood*, 327 U.S. 678, 684 (1946))).

Thus, the Declaration recognizes that when a government destroys human rights and all other remedies have failed, the people are “compelled to have recourse, as a last resort, to rebellion against tyranny and oppression.” Because “[e]veryone has the right to an effective remedy,” the people necessarily have the right to possess and use arms to resist tyranny, if arms use is the only remaining “effective remedy.”

In international law, a “Declaration” does not directly have a binding legal effect, although it may be used as evidence of customary international law. . . .

C. JUS COGENS

Under international law, some laws are accorded the status of *jus cogens*, which means that in case of conflict, they override other laws. [Vienna Convention on the Law of Treaties art. 53](#), opened for signature May 23, 1969, 1155 U.N.T.S. 331. Many commentators agree that the duty to prevent genocide must be considered *jus cogens*.²²¹ Indeed, it would be difficult to articulate a more fundamental principle than the prevention of genocide. . . .

Accordingly, the legal duty to prevent genocide would be superior to whatever limits the U.N. Charter sets on military action which is not authorized by the Security Council. Similarly, the legal duty to prevent genocide would be superior to treaties or conventions restricting the transfer or possession of arms.

221. See [Restatement \(Third\) of Foreign Relations Law of the United States §102 cmt. 6](#) (1987) (explaining that an international agreement that encourages, practices, or condones genocide is void under *jus cogens* principles).

D. APPLICATION OF THE GENOCIDE CONVENTION AGAINST ARMS CONTROL:
THE CASE OF BOSNIA

Since the Genocide Convention came into force half a century ago, there has been very little exposition of the meaning of the Convention's affirmative duty on signatory states "to prevent" genocide. Perhaps not entirely by coincidence, very little has actually been done to stop on-going genocides in the last half century.

The first legal analysis of the prevention duty came from the dissenting judges in a 1951 advisory opinion by the International Court of Justice, in which the Court made a nonbinding ruling on whether the "reservations" which some states attached to their ratification of the Genocide Convention were legally effective.²²⁷ The dissenting judges' words have often been quoted by human rights activists: "[T]he enormity of the crime of genocide can hardly be exaggerated, and any treaty for its repression deserves the most generous interpretation."

The first, and so far only, contested case involving the scope of the duty to prevent genocide was *Bosnia v. Yugoslavia*, in which an opinion by Judge Lauterpacht squarely faced the duty to prevent issue. Application of the Convention of the Crime of Genocide (Bosn. & Herz. v. Yugo. (Serb. & Mont.)), 1993 I.C.J. 325, 407-48 (Sept. 13) (separate opinion of Judge Lauterpacht).

Yugoslavia had been created by the [Treaty of Versailles](#) in 1919, and until the country broke up in 1991, it was the largest nation on the Balkan peninsula.

Yugoslavia was turned into a Communist dictatorship in 1945 by Josip Broz Tito. When Tito died in 1980, his successors feared civil war, so a system was instituted according to which the collective leadership of government and party offices would be rotated annually. But the new government foundered, and in 1989, Serbian president Slobodan Milošević began re-imposing Serb and Communist hegemony. Slovenia and Croatia declared independence in June 1991.

Slovenia repelled the Yugoslav army in ten days, but fighting in Croatia continued until December, with the Yugoslav government retaining control of about a third of Croatia. Halfway through the Croat-Yugoslav war, the UN Security Council adopted [Resolution 713](#), calling for "a general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia" (meaning rump Yugoslavia, plus Croatia and Slovenia).

It was universally understood that the Serbs were in control of most of the Yugoslavian army's weaponry, and that the embargo therefore left them in a position of military superiority. Conversely, even though the embargo was regularly breached, it left non-Serbs vulnerable. The United Nations had, in effect, deprived the incipient countries of the right to self-defense, a right guaranteed under Article 51 of the U.N. Charter.

²²⁷ [Reservations of the Convention on the Punishment and Prevention of Genocide, Advisory Opinion](#), 1951 I.C.J. 15, 47 (May 28) (Guerrero, McNair, Read, & Hsu Mo, JJ., dissenting).

Macedonia seceded peacefully from Yugoslavia in early 1992, but Bosnia-Herzegovina's secession quickly led to a three-way civil war between Bosnian Muslims (Bosniacs), Serbs (who are Orthodox Christians), and Croats (who are Roman Catholic). It was generally recognized that the Bosnian Serbs received substantial military support from what remained of old Yugoslavia (consisting of Serbia and Montenegro, and under the control of Slobodan Milosević).

Security Council Resolution 713 now operated to make it illegal for the new Bosnian government to acquire arms to defend itself from Yugoslav aggression.

Bosnia sued Yugoslavia in the United Nations' International Court of Justice. In April 1993, the International Court of Justice ruled, with only one dissenter, that Yugoslavia was perpetrating genocide, and ordered it to stop. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosn. & Herz. v. Yugo. (Serb. & Mont.)), 1993 I.C.J. 325 (Sept. 13) (Requesting the Indication of Provisional Measures Order of Apr. 8).

A few months later, Bosnia brought forward additional legal claims. Among the new claims was a request to have the UN embargo declared illegal, as a violation of the Genocide Convention. The majority of the International Court of Justice voted only to reaffirm portions of the April 1993 order; they stated that the court had no jurisdiction over the Security Council's embargo. The majority's ruling was not implausible, since the Security Council was not a party to the case.

Several judges who had voted in favor of the majority opinion also wrote separate opinions. One of the judges, Judge Elihu Lauterpacht, wrote a separate opinion which was the first international court opinion ever to address the legal scope of the Genocide Convention's affirmative duty "to prevent" genocide.

Judge Lauterpacht cited the findings of a Special Rapporteur about the effect of the arms embargo, and pointed to the "direct link . . . between the continuation of the arms embargo and the exposure of the Muslim population of Bosnia to genocidal activity at the hands of the Serbs." *Id.* at 438 (separate opinion of Judge Lauterpacht).

Normally, Security Council resolutions are unreviewable by the International Court of Justice. However, Judge Lauterpacht ruled that the prevention of genocide is *jus cogens*. *Id.* at 439-44. He concluded that the Security Council arms embargo became void once it made U.N. member-states "accessories to genocide." *Id.* at 501.

Formal repeal of the Security Council embargo was impossible, because Russia threatened to use its veto to prevent any action harmful to its client-state Serbia. However, Judge Lauterpacht's opinion stated that the U.N. embargo was already void as a matter of law, the moment it came into conflict with the Genocide Convention. Accordingly, Bosnia acted in accordance with international law when Bosnia subverted the United Nations arms embargo, by importing arms from Arab countries. The United States's Clinton Administration, which winked at the Bosnian arms smuggling, was compliant with international law, even though the administration was subverting a Security Council resolution that purported to set a binding international rule.

VI. INTERNATIONAL LAW IMPLICATIONS

Decisions of the International Court of Justice are binding only on the parties to the case. So even if Judge Lauterpacht had written the majority opinion, rather than a concurring opinion, the opinion would not, ipso facto, create a binding international standard of law. Nevertheless, Judge Lauterpacht's opinion brings together several principles that seem difficult to deny:

- The Genocide Convention imposes an affirmative duty to prevent genocide.
- The Genocide Convention is *jus cogens*. (If the Genocide Convention is not so important as to be *jus cogens*, then hardly anything else could be.)
- Numerous international standards affirm a right of self-defense, including a right to self-defense against criminal governments perpetrating genocide.
- In some cases, a state's compliance with an otherwise-valid arms control law may bring the state into violation of [the] Genocide Convention, if the arms control law facilitates genocide.
- Therefore, in case of conflict between the arms control law and the Genocide Convention, every state and the United Nations, including their courts, is obligated to obey the Genocide Convention.

To see that the final principle is an inescapable standard of international law, one only need state the converse, which is self-evidently immoral and abhorrent: "An international or national court must always enforce arms prohibition laws, even if enforcement makes the court complicit in genocide."

The majority of the United Nations International Court of Justice was, understandably, reluctant to confront the United Nations Security Council by declaring a Security Council resolution to be unlawful. In this Article, though, we are not primarily concerned with whether the International Court of Justice will develop the institutional strength to confront illegal actions of the Security Council. Rather, our focus is on the standard of conduct for all persons, including domestic and international judges, who are concerned with obeying international human rights law, especially the Genocide Convention.

Let us now examine some particular applications of the international human right of genocide victim self-defense.

A. SUDANESE GUN CONTROLS

Sudan's national gun control laws are invalid, insofar as they are enforced to prevent the genocide victims of Darfur from obtaining firearms for lawful defense against genocide. The antigenocide rule does not affect the validity of Sudanese gun laws as applied in areas of the country, such as northeast Sudan, where no genocide is taking place.

The practical juridical effect of our finding about the enforcement of Sudanese gun laws in Darfur is limited. After all, Sudanese enforcement of national gun control laws in Darfur tends to proceed mainly by killing people, not by putting them on trial.

Moreover, even if a Sudanese court did try a gun law prosecution, it would not be realistic to expect the Sudanese court to rule, in effect, “Sudan’s gun laws, while prima facie valid, cannot presently be enforced against the people of Darfur who are trying to defend themselves against the genocide sponsored by the Sudanese government.” A regime that perpetrates genocide is unlikely to tolerate an independent judiciary that would interfere with the genocide.

Acknowledgement that enforcement of the Sudanese gun laws against the people of Darfur is a violation of the Genocide Convention could, perhaps, be of significance to non-Sudanese government officials. For example, if a Sudanese national smuggled arms to the Darfur victims, and then took refuge in another country, that country’s executive or judicial officers might refuse to extradite the smuggler to Sudan. Notwithstanding an extradition treaty with Sudan, application of the extradition treaty, in the particular case of the antigencide arms smuggler, would make the host country complicit in genocide.

B. THE SUDANESE ARMS EMBARGO

[T]he U.N. Security Council has imposed an arms embargo which prohibits the transfer of arms to the government of Sudan, the Janjaweed Arab militias, and the resistance movement in Darfur (the SLA and the JEM). [S.C. Res. 1591](#), U.N. Doc. S/RES/1591 (Mar. 29, 2005).

The application of the embargo to the Darfur resistance is a violation of the Genocide Convention, for the same reasons that Judge Lauterpacht stated that application of the Security Council arms embargo to Bosnia was a violation of the Genocide Convention: a facially neutral arms control which leaves genocide victims helpless against genocide perpetrators is a violation of the Genocide Convention; enforcement of such an embargo makes the enforcer complicit in genocide.

Accordingly, no state has a legal obligation to interfere with the delivery of arms to the people of Darfur. To hinder their acquisition of arms would be to assist the genocide being perpetrated in Darfur.

C. PROTOCOL AGAINST THE ILLICIT MANUFACTURING OF AND TRAFFICKING IN FIREARMS

In July 2005, the [Protocol against the Illicit Manufacturing of and Trafficking in Firearms](#) became law, for the more than forty nations that have ratified the Protocol. Briefly stated, the Protocol requires that parties to the Protocol enact laws requiring that all firearms manufactured in the host country have a serial number and a manufacturer identification.¹⁴ (The United States enacted a similar law decades ago.) Further, ratifying countries must keep registration records of firearms sales and owners, for the purpose of combating international arms

14. [In December 2005, the Protocol was adopted by the U.N. General Assembly, and is commonly known as the International Tracing Instrument. *See supra* Section A.2. — Eds.]

smuggling. The Protocol exempts Communist China from its requirements, even though China is a major international source of illegal firearms (*see* p. 208).

For the same reason that Sudanese gun laws and the Security Council embargo cannot be enforced against the victims in Darfur, neither can the Protocol. Thus, if a defendant were charged in a national or international court with violating the Protocol, he should be allowed to raise an affirmative defense showing that he was supplying arms to genocide victims.

The affirmative defense would be consistent with the spirit of the Preamble to the Protocol, which recognizes “the inherent right to individual or collective self-defence” and “the principle of equal rights and self-determination of peoples.” However, even with the Preamble, the Protocol must yield to the Genocide Convention whenever the Protocol conflicts with the Convention. It is the prohibition of genocide, not the imposition of paperwork rules on arms transfer, that is the *jus cogens*, the expression of fundamental human rights.

**D. PROPOSED CONVENTION PROHIBITING TRANSFER OF FIREARMS TO
“NONSTATE ACTORS”**

In 2001, the United Nations held a convention on “small arms” which many people hoped would produce an international treaty restricting the possession and transfer of firearms Among the most sought objectives of the treaty advocates is an international prohibition on the transfer of firearms to “nonstate actors” — that is, to anyone not approved by government. [Discussed *supra* Section A.] Should an international treaty be created, it should include an explicit exemption to authorize supplying arms to genocide victims. Such an exception must exist, implicitly, because of the *jus cogens* status of the Genocide Convention. However, it would be clearer for the treaty to include an explicit exception. Indeed, any nation’s delegation that refused to vote in favor of an exception for genocide victims would necessarily raise doubts about its own commitment to human rights.

E. THE NAIROBI PROTOCOL

[The Nairobi Protocol, a gun control agreement among East African governments, is detailed *supra* Section A.2.]

Of the signatories, only Eritrea (which won independence in 1991 in a revolutionary war against Ethiopia) has been democratic for at least half its existence as an independent nation. The majority of signatories of the Nairobi Protocol have witnessed genocide in their nations within the last several decades, including the current genocides being perpetrated in the Democratic Republic of the Congo (i.e. Pygmies), Ethiopia, and Sudan. . . .

Regional antifiorearms agreements, even if generally valid, cannot lawfully be enforced, if their enforcement would conflict with the Genocide Convention.



Antonio Cassese, The Various Aspects of Self-Defence Under International Law,

Background paper (Small Arms Survey 2003), excerpted in *Small Arms Survey 2004*, at 181 (2005)¹⁵

The right of self-defence under international law governs relations between states as opposed to groups and individuals. Pursuant to Article 51 of the Charter of the United Nations and Statute of the International Court of Justice (UN, 1945) and corresponding customary international law, states have a right to defend themselves against an “armed attack” if the UN Security Council fails to take effective action to stop it. Rebels, insurgents, and other organized armed groups do not have a right to use force against governmental authorities, except in three cases. Liberation movements can use force in order to resist the forcible denial of self-determination by (1) a colonial state, (2) an occupying power, or (3) a state refusing a racial group equal access to government. These situations, however, are not considered ones of “self-defence” under international law. Individuals who are not organized in groups have even less scope for the use of force under international law. Individuals have no legal right to use force to repel armed violence by oppressive states. This includes governments that commit acts of genocide or other serious human rights violations. Nor does international law grant individuals a right to defend themselves against other individuals. This right is provided for by states in their national legal systems as each state determines the conditions under which individuals can use force for these purposes. It is not surprising that states have refused to legitimize the resort to armed violence by individuals given the threat this would pose to their own authority. International law is made by states and tends to reflect their interests and concerns. The Universal Declaration of Human Rights nevertheless provides a moral endorsement of the violent reaction of individuals to political oppression or other forcible denial of fundamental human rights: “it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.”

NOTES & QUESTIONS

1. Cassese’s three exceptions are each based on U.N. General Assembly resolutions that have made general statements approving the use of force.
 - Under Cassese’s theory would any of the following have a legal right of forcible resistance?
 - German Jews facing Hitler’s genocide, taking into account that the Nazi government was not an “occupying power” and that the Jews were of the

15. Cassese wrote a background paper that was published in 2003 by the Small Arms Survey, a gun-control research organization based in Geneva, Switzerland. Every year, the Small Arms Survey publishes a book about gun-control issues; the book is always titled “Small Arms Survey,” along with a particular year. The book *Small Arms Survey 2004* was published in 2005.

same racial group (Caucasian) as their persecutors, although they were of different ethnicity and religion? Cf. George A. Mocsary, *Explaining Away the Obvious: The Infeasibility of Characterizing the Second Amendment as a Nonindividual Right*, 76 Fordham L. Rev. 2113, 2160 n.420 (2008). Would Jews have a self-defense right only if one accepted the Nazi theory that Jews *are* a separate race?

- Cambodians under the Pol Pot regime? Only the Cambodian ethnic minorities who were targeted by the Pol Pot regime?
- Victims of rape that is systematically encouraged by government, such as by allowing rape charges to be brought only if there are four male witnesses?
- Victims of the Rwandan genocide, who were of the same race but a different tribe than the genocidaires? Sudanese Darfuris, who are very dark skinned, live in Africa, and are often called “Africans,” and whose genocidaires have very dark skin, live in Africa, and are Arabs? Does the answer depend on whether the killers consider the Darfuris to be of a different race from themselves? Does the answer depend on the motivation of the genocidaires (whether they think they are killing people of a different race)? Or does the answer depend on whatever the scientists of the day says about whether genocidaires and their victims are of different races?

2. Cassese’s three exceptions in which the use of force for resistance is legally derived from the U.N. General Assembly’s 1974 Resolution on the Definition of Aggression. See *supra* Section A. According to Article 7 of the Resolution:

Nothing in this definition . . . could in any way prejudice the right of self-determination, freedom and independence . . . particularly peoples under colonial and racist regimes or other forms of alien domination; nor the right of these peoples to struggle to that end and seek and receive support.

Putting aside the fact that General Assembly resolutions are not international law, is Cassese’s narrow reading of this Resolution correct? Does the Resolution recognize a right to use force only against colonial or racist regimes? Or against any regime that denies “the right of self-determination, freedom and independence”? What is the effect of the word “particularly” here?

3. What are the differences between Cassese’s view of international law and Classical international law?
4. For more on genocide and gun control, see David B. Kopel, *Book Review*, 15 N.Y.L. Sch. J. Int’l & Comp. L. 355 (1995) (reviewing Aaron Zelman et al., *Lethal Laws* (1994)). Also see the material on Nazi Germany in Chapter 14.
5. Consider Cassese’s statement that international law does not grant individuals a right to defend themselves against other individuals; that self-defense is instead provided for by states in their national legal systems as each state

determines the conditions under which individuals can use force for these purposes. Beyond the simple statement, what principle or principles justify this divergent treatment of individuals versus groups or states? Do you think most Americans would agree with the proposition that individual self-defense is not a fundamental human right?

6. Is armed resistance to genocide a right recognized by international law? Should it be? Could legal recognition of such a right create dangerous or unintended consequences? Should members of a group facing genocide make decisions about forcible resistance based on international law? Should governments or individuals in other countries assist such resistance only if the assistance complies with international law?

D. Bringing International Law Home, or a Global Second Amendment?

Harold Hongju Koh, A World Drowning in Guns

71 *Fordham L. Rev.* 2333 (2003)

Let me start by describing the problem. Today there are an estimated 639 million documented small arms in the world. That is more than half-a-billion small arms: more than one for every twelve men, women, and children on the face of the earth. Significantly, all sources concede that this number undercounts the actual number by tens of millions. It does not include, for example, the millions of undocumented, privately held guns in such major countries as China, India, Pakistan, or France. . . .

While no universally accepted legal terminology exists, considerable agreement has begun to emerge that the term “small arms” includes, at a minimum, handguns, revolvers, pistols, automatic rifles, carbines, shotguns, and machine guns. “Light weapons,” which are usually heavier, larger, and designed to be hand-carried by teams of people, embrace grenade launchers, light mortars, shoulder-fired missiles, rocket launchers, artillery guns, anti-aircraft weapons, anti-tank guns, and related ammunition. . . .

But in 1993—only ten years ago—academic articles started to appear about the small arms trade, and academic conferences began to spotlight the topic. The academics pushed to get the UN interested, particularly the UN Institute for Disarmament Research. Research NGOs in several supplying countries also took up this issue—including the Arms Division of Human Rights Watch, the Bonn International Center for Conversion, British American Security Information Council (“BASIC”), International Alert, and the Institute for Security Studies in South Africa. As often happens, once research NGOs get involved, activist NGOs begin to get involved as well. The international gun control lobby soon linked up with the domestic gun control lobbies in leading countries.

And then, as with the Landmines treaty,¹⁶ transnational norm entrepreneurs entered the picture and started to create action networks. One of the leaders of this movement was my interlocutor, Oscar Arias, who gathered eighteen Nobel Prize Winners to create an International Code of Conduct with regard to arms transfers. Finally, the transnational activists developed their own network, the International Action Network on Small Arms (“IANSA”), which has become the biggest international network that has existed on any issue since the global landmines campaign. It is a group of over 300 NGOs, which currently include faith-based groups, educational groups, human rights groups, social development groups, public health and medical groups, democracy groups, justice groups, conflict-resolution groups, and anti-gun lobbies. . . .

But the regulation of small arms presents a far more difficult problem. For we are a long way from persuading governments to accept a flat ban on the trade of legal arms. Given that small arms will continue to be lawfully traded, what kind of enforceable norms can be developed in the relevant law-declaring forum? To be viable, a global regime should incorporate at least three elements.

First, a marking and tracing regime must be implemented. . . . The UN Resolution establishing the UN Register of Conventional Arms could be modified so that the United States, and the ninety other nations that annually submit relevant information to the Register, could be required to submit information about their small arms production. In addition, a number of countries have proposed complementary regional registers that would explicitly enumerate small arms in areas such as Africa, where small arms remain the primary weapons of war. In due course, a marking and tracing norm could be embedded in a treaty:⁶ Article VI of the OAS Convention, for example, calls for marking at the time of manufacture, importation, and confiscation of firearms, grenades and other covered weapons, and Articles XI and XIII further require various forms of record-keeping and information exchange.⁷

Second, transparency and monitoring of these processes by international NGOs are critical. . . .

Third and most important, the horizontal process should produce a “transfer ban” that would prevent legal arms from being transferred either to illicit users or to recognized human rights violators. Although this would not be easy to do, under our own U.S. domestic arms law, there are already restrictions on making transfers or licenses to certain gross violators of human rights who have been so certified by, for example, the Bureau of Political-Military Affairs at the State Department, congressional staffs, and my own former bureau at the State Department, the Bureau of Democracy, Human Rights and Labor. . . .

[T]he OAS Convention provides the best model. The Inter-American Convention, inter alia, requires each state: to establish a national firearms control system and a register of manufacturers, traders, importers, and exporters of

16. [Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (1997) (entered into force in 1997). —Eds.]

6. [A marking regime was implemented by the 2005 International Tracing Instrument, detailed *supra* Section A.2. —Eds.]

7. [“The OAS Convention” refers to the CIFTA convention, which the United States has signed but not ratified, excerpted *supra* Section A.2. —Eds.]

these commodities; to establish a national body to interact with other regional states and a regional organization advisory committee; to standardize national laws and procedures with member states of regional organizations; and to control effectively borders and ports. Other key provisions include requiring an effective licensing or authorization system for the import, export, and in-transit movement of firearms, an obligation to mark firearms indelibly at the time of manufacture and import to help track the sources of illicit guns, and requiring states to criminalize the illicit manufacturing of and illicit trafficking in firearms. . . .

More fundamentally, however, to fully effectuate the goals of the small arms regime, the United States must focus on supply-side solutions and destination controls. Supply-side controls mean destroying existing stockpiles of small weapons. Through bilateral and multilateral diplomacy, our government should start a process of promoting exchanges and destruction of existing small weapons caches. . . .

These weapons destruction measures, however, must be combined with supply-side control measures within the United States. . . . To address this concern, in 1996, President Clinton signed arms brokering legislation that amended the Arms Export Control Act to give the State Department greater authority to monitor and regulate the activities of arms brokers. Key provisions included the requirements that all brokers must register with the Department of State, must receive State Department authorization for their brokering activities, and must submit annual reports describing such activities. The United States is currently working to promote adoption of similar laws by other nations by incorporating such a provision into the international crime protocol being negotiated in Vienna.

Perhaps the strongest mode of internalization of supply-side controls would be through an enhanced search for technological solutions. One particularly intriguing idea is the idea of promoting production of smart or “perishable ammunition,” e.g., AK-47 bullets that would degrade and become unusable over time. Ironically, by focusing exclusively on controlling the delivery mechanism—the guns themselves—the small arms activists may have overlooked a surer longer-term solution to the international firearms problem.

NOTES & QUESTIONS

1. Koh admitted that “we are a long way from persuading governments to accept a flat ban on the trade of legal arms.” He urged that the next steps be the creation of international arms registries; giving nongovernmental organizations power to monitor governmental compliance with international gun control; and “stronger domestic regulation.” Would these measures be helpful steps toward a later ban on the legal trade in arms?
2. Writing in the *Stanford Law Review* about “the most problematic face of American exceptionalism,” the type that Koh ranked highest in “order of ascending opprobrium,” he complained that the United States did not “obey global norms.” Among his examples was the American stance of “claiming a Second Amendment exclusion from a proposed global ban

on the illicit transfer of small arms and light weapons.” Harold Hongju Koh, *On American Exceptionalism*, 55 Stan. L. Rev. 1479, 1486 (2003). Koh was referring to the American position at the 2001 U.N. Conference that produced the Programme of Action on Small Arms. *Supra* Section A.2. The Bush administration adhered to this position at the 2006 U.N. conference that attempted, but did not succeed, at turning the Programme of Action into a legally binding convention. At the 2012 U.N. meeting that did not achieve its objective of producing an Arms Trade Treaty, the Obama administration likewise announced that an ATT must be drafted so as not to violate the Second Amendment rights of Americans. Do you think that the positions of the Bush and Obama administrations were appropriate?

3. In 2009, President Obama nominated Koh to be Legal Adviser to the U.S. State Department, and the Senate confirmed the nomination. Shortly before the Senate confirmation hearing, Professor Julian Ku suggested some questions to be asked at those hearings. One question was:

You have argued for a “Constitutional Charming Betsy Canon” that would guide courts in the interpretation of the U.S. Constitution. Does this mean that you believe courts should, whenever possible, interpret the Constitution to conform with international law and foreign law?

Julian Ku, *Ten Questions for Legal Advisor-Nominee Harold Hongju Koh*, Opinio-Juris.com (Apr. 9, 2009).

In the 1804 U.S. Supreme Court case of *Murray v. Schooner Charming Betsy*, 6 U.S. 64 (1804), Chief Justice Marshall wrote that “an act of Congress ought never to be construed to violate the law of nations, if any other possible construction remains.” The *Charming Betsy* ship was originally owned by an American but was later sold in St. Thomas to a Dane who sent it on a commercial voyage to the French island of Guadeloupe. The issue before the Court was whether the ship was forfeitable under the congressional statute that forbade American trade with France. The Marshall Court construed the statute narrowly, so as not to run counter to international law, which allows trade by neutrals (such as Denmark).

In statutory construction, the *Charming Betsy* canon has been applied by American courts ever since. To elevate *Charming Betsy* to a canon of constitutional construction would mean that whenever there is ambiguity, the Constitution should be construed to match international law. Of course almost every constitutional case that reaches the Supreme Court involves the resolution of some kind of ambiguity: What kind of punishment is “cruel and unusual”? What searches and seizures are “unreasonable”? Does the protection of “the freedom of speech” include political advertisements by the National Rifle Association or the Brady Campaign, if the ads are paid by general membership dues?¹⁷ What kind of “Arms” are encompassed in the

17. *Citizens United v. Federal Election Commission*, 558 U.S. 50 (2010), ruled that corporations (including the National Rifle Association and the Brady Campaign to Prevent Gun Violence) can use funds in their corporate treasuries to make independent expenditures

Second Amendment, and what kinds of controls amount to the right's being "infringed"?

Should all ambiguities in the U.S. Constitution be resolved so that the Constitution is consistent with international law? Does the answer depend on what "international law" is?

4. One form of international law is *positive law*—which is created by written documents similar to a statute or a contract. Examples include treaties, conventions, bilateral agreements, and so on. Long before wide-ranging international treaties became common, international law was derived from *customary law*. Customary law arises from the common behavior of nations who believe that their actions are compelled by international law. For example, in the eighteenth century, civilized nations did not execute enemy soldiers who had been captured, nor did they arrest or imprison ambassadors from foreign nations, even if the ambassador was suspected of a crime. These customary practices were considered by the nations themselves to be legally mandatory, even though there were no applicable treaties about the laws of warfare or the immunities of diplomats. Thus the term "customary law."

In a normal sense, customary law is defined by what nations actually do based on their beliefs about prevailing legal requirements. In this normal sense, customary international law is not particularly controversial.

However, as Professor Koh approvingly notes, with his references to "transnational" activists and norms entrepreneurs, there have been important efforts in recent decades to expand dramatically what is meant by "international law." For example, United Nations General Assembly Resolutions have no legal force; they constitute nothing more than the opinion of the majority of the General Assembly. Likewise, pronouncements at meetings conducted by nongovernmental organizations (NGOs) are not standard sources of customary international law.

One thing that Professor Koh's "transnationalists" do very well is bundle together various items that have no legal force in themselves, then add some creative interpretation of a barely related clause in a couple of treaties, and declare their product to be "customary international law." *E.g.*, Nadia Fischer, *Outcome of the United Nations Process: The Legal Character of the United Nations Programme of Action, in Arms Control and Disarmament Law* 165-66 (2002) (United Nations publication) (U.N. gun control documents are "norms" of international law).

These declarations often do not amount to "law" in the sense of being something that most law-abiding governments feel required to obey. But courts in some countries have sometimes cited such activists' pronouncements about international law as authoritative sources of binding law. Should U.S. courts do the same? Sometimes?

5. Customary international law, in its traditional form, has long been considered binding in American courts. For example, in the Early Republic, state

in federal elections; that is, they can expend their own money to speak on behalf of a preferred candidate.

and federal courts ruled that foreign ambassadors could not be criminally prosecuted or civilly sued (in most situations). These cases were a straightforward application of ambassadorial immunity, which had been established as customary international law for more than two centuries.

Professor Koh suggests that domestic courts should “construe domestic statutes consistently with international law,” and “should employ international human rights norms to guide interpretation of domestic constitutional norms.” Harold Hongju Koh, *Why Do Nations Obey International Law?*, 106 Yale L.J. 2599, 2658 n.297 (1997). For example, the U.N. Human Rights Council position that gun control is an international human right, *supra* Section A.2, might be used in judicial interpretation of U.S. firearms statutes and the Second Amendment. Should some or all international norms be binding in U.S. courts?

6. Norms entrepreneurship does not work only in one direction. In October 2005, the people of Brazil voted on a referendum to outlaw private gun ownership. Although the referendum was strongly supported by Brazil’s President Luiz Inácio Lula da Silva, the prohibition proposal was crushed by a 64 to 36 percent vote. The vote had been strongly supported by the international gun prohibition coalition described in Professor Koh’s article, and Brazilian prohibition activists received support from the United Nations. A win for prohibition in Brazil was supposed to set the stage for similar votes in other nations, and for the creation of a major international gun control treaty at a U.N. conference in the summer of 2006.

The Brazilian election had the opposite effect. NGO advocacy for prohibition was led by Viva Rio. The group’s leader, Rubem Fernandes, explained at a U.N. meeting what he had learned from the experience: “First lesson is, don’t trust direct democracy.”

He also noted that the argument “I have a right to own a gun” became “a very profound matter” in the debate on the referendum. Rubem Fernandes, *Lessons from the Brazilian Referendum, Remarks to the World Council of Churches* (Jan. 17, 2006), *quoted in* Wayne Lapierre, *The Global War On Your Guns* 187 (2006). Fernandes was speaking at PrepCom 2006, a U.N.-sponsored meeting to prepare participants for the major U.N. gun control conference in June-July 2006. [Side Events, PrepCom 2006](#) (Preparatory Committee for the Conference to Review Progress in the Implementation of the Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects), United Nations, Jan. 9-20, 2006.

An article in *Foreign Policy* magazine ponders whether Brazil’s vote has broader implications:

If you asked people in Bosnia, Botswana, or, for that matter, Brazil, what the Second Amendment of the U.S. Constitution stands for, most of them would probably have no idea. But the unexpected defeat of Brazil’s proposed gun prohibition suggests that, when properly packaged, the “right to keep and bear arms” message strikes a chord with people of very different backgrounds, experiences, and cultures, even when that culture has historically been anti-gun.

In fact, the Second Amendment may be a more readily exportable commodity than gun control advocates are willing to accept, especially in countries with fresh memories of dictatorship. When it is coupled with a public’s fear of crime—a pressing concern in most of the developing world—the message is tailored for mass consumption.

David Morton, *Gunning for the World*, Foreign Policy, Jan./Feb. 2006.

Recall the materials earlier in this chapter asserting that personal self-defense and collective resistance to tyranny are fundamental, natural, inherent human rights. Should the right to keep and bear arms be considered a universal human right, that all civilized governments should respect?

Recall the U.S. Supreme Court’s statement in *United States v. Cruikshank*, 92 U.S. 542 (1876) (Chapter 6), regarding the First Amendment right to assemble and the Second Amendment right to keep and bear arms, that each “derives its source . . . from those laws whose authority is acknowledged by civilized man throughout the world. It is found wherever civilization exists.” If U.S. foreign policy attempted to promote respect for the right to assemble and the right to arms in other countries, would the United States be advancing civilization?

7. Online Chapter 14, on Comparative Law, describes the situation in Kenya, where many pastoral tribes have been resisting government gun confiscation efforts for decades. An article in Kenya’s leading newspaper urges the government to abandon the confiscation campaigns, and instead to follow the Second Amendment model:

“How can the Government ask us to surrender our guns when we know very well that there is no security for us? If we give out our firearms, say today, who will protect us when the neighbouring tribes strike? How about our stolen livestock? Who is going to return them to us?” Mr. Lengilikwai talks with bitterness.

In the past, critics of liberalising access to firearms have argued that they would put ordinary people’s lives in peril because even squabbles in the streets or the bedroom would be resolved by bullets. Incidentally, such incidents are few and far between in the Kerio Valley despite the easy accessibility of AK-47s as well as the relatively low levels of education and social sophistication. . . . If Kenya is to achieve long-lasting stability, it ought to borrow a leaf from the US, whose constitution gives the people the right to bear arms and form militias for their own defence should the armed forces fail them, as happened in Kenya after the December elections.

Paul Letiwa, *Why Herders Won’t Surrender Their Firearms Just Yet*, Daily Nation, Apr. 30, 2008. See also Ng’ang’a Mbugua, *Law Should Be Changed to Free Guns*, Daily Nation, Apr. 25, 2008 (noting success of armed defense program of the people of the Kerio Valley).

Suppose that the idea of a fundamental human right to keep and bear arms becomes as popular globally as it is in the United States. What consequences might ensue?

14

Comparative Law

*This is online Chapter 14 of the law school casebook *Firearms Law and the Second Amendment: Regulation, Rights, and Policy*, by Nicholas J. Johnson, David B. Kopel, George A. Mocsary, and Michael P. O’Shea. The printed book, consisting of Chapters 1 through 11, is available at the [website of Aspen Publishers](#). The printed book is also available from [Amazon.com](#) and [Barnes & Noble \(bn.com\)](#). The [public website for this casebook](#) contains the four online chapters (Chapters 12 through 15), plus podcasts on each chapter, resources for student research papers, and more.*

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Online Chapter 13 covered International Law—that is, law that applies among nations, such as treaties. Online Chapter 14 studies Comparative Law; comparing and contrasting the “domestic” (noninternational) gun laws of various nations and examining the possible effects of those different laws. Because international law is derived in part from the “norms” of civilized nations, the study of comparative law can yield useful insights for international law.

A. National Constitutions

1. Constitutional Rights to Arms

Besides the United States, three other nations have an express constitutional right to arms.

a. Mexico

Constitución Política de los Estados Unidos Mexicanos [C.P.], *as amended*, art. 10, Diario Oficial de la Federación [DO], 5 de Febrero de 1917 (Mex.):

The inhabitants of the United States of Mexico have the right to possess arms in their domiciles, for security and legitimate defense, with the exception of the prohibitions by federal law and the reservations for exclusive use of the military, army, air force, and national guard. Federal law will determine the cases, conditions, requirements, and place under which the inhabitants will be authorized to carry arms.

b. Haiti

Constitution de la République d'Haïti art. 268-1 (1987):

Every citizen has the right to armed self-defense, within the bounds of his domicile, but has no right to bear arms without express well-founded authorization from the Chief of Police.

c. Guatemala

Guatemala Constitution art. 38 (1986):

Possession and carrying of arms. The right of possession of arms, not prohibited by law, for personal use is recognized, in the home. There will be no obligation to surrender them, save in cases that are ordered by a competent judge. The right of carrying of arms is recognized, and regulated by the law.

2. Constitutional Right of Self-Defense

Fifteen nations, all of whom have legal systems derivative of English law, use nearly identical language to constitutionalize self-defense: Antigua & Barbuda (art. 4), the Bahamas (art. 16.), Barbados (art. 12), Belize (art. 4), Cyprus (art. 7.), Grenada (art. 2), Guyana (art. 138), Jamaica (art. 14), Malta (§33), Nigeria (art. 33), Samoa (art. 5), St. Kitts & Nevis (art. 4), Saint Lucia (art. 2), Saint Vincent and the Grenadines (art. 2), and Zimbabwe (art. 12). Another country, Slovakia (art. 15), uses a variation of the formula.

The language in these 15 nations' constitutions is a more elaborate version of the provisions in the European Convention on Human Rights recognizing a right to life and self-defense. (*See* Chapter 13.A.) The language in these constitutions provides:

- (1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.
- (2) A person shall not be regarded as having been deprived of his life in contravention of subsection (1) if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable in the circumstances of the case

- (a) for the defence of any person from violence or for the defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purpose of suppressing a riot, insurrection or mutiny or of dispersing an unlawful gathering; or
- (d) in order to prevent the commission by that person of a criminal offence, or if he dies as the result of a lawful act of war.

Two other countries also constitutionally enumerate a right of self-defense. In Honduras, “the right of defense is inviolable” (art. 82). In Peru, “Every person has the right: . . . §23 To legitimate defense.”).

3. Constitutional Self-Defense against Tyranny

In 13 nations, the constitution affirms a right and duty of citizens to resist or revolt against domestic or foreign tyranny. The most detailed of these is the Honduran Constitution:

Nobody owes obedience to a usurping government nor to those who assume functions or public powers by the force of arms or by uses or procedures that violate or are unknown to this Constitution and the established laws. The acts proclaimed by such authorities are null. The people have the right to resort to insurrection in defense of the constitutional order.

Constitución Política de la República de Honduras de 1982, art. 13.

There are similar provisions in the constitutions of:

Argentina (§36): “This Constitution shall rule even when its observance is interrupted by acts of force against the institutional order and the democratic system. These acts shall be irreparably null. . . . Those who . . . were to assume the powers foreseen for the authorities of this Constitution . . . shall be punished . . . and shall be civilly and criminally liable for their acts. . . . All citizens shall have the right to oppose resistance to those committing the acts of force stated in this section. . . .”

Greece (art. 120(4)): “Observance of the Constitution is entrusted to the patriotism of the Greeks who shall have the right and the duty to resist by all possible means against anyone who attempts the violent abolition of the Constitution.”

Hungary (art. 2(3)): “No activity of any person may be directed at the forcible acquisition or exercise of public power, nor at the exclusive possession of such power. Everyone has the right and obligation to resist such activities in such ways as permitted by law.”

Portugal (art. 21): “Everyone has the right to resist any order that infringes his rights, freedoms, or safeguards and to repel by force any form of aggression when recourse to public authority is impossible. . . .”

Slovakia (art. 32): “The citizens shall have the right to resist anyone who would abolish the democratic order of human rights and freedoms set in this Constitution.”

Provisions with wording similar to the Honduran Constitution have also been adopted by Congo (art. 17), Guatemala (art. 45), Lithuania (art. 3), and Peru (art. 46).

Three other nations' constitutions incorporate the Universal Declaration of Human Rights, which in turn affirms the right of resistance to tyranny (Chapter 13.A): Andorra (art. 5), Mauritania (pmb.) (also incorporating African Charter of Human and Peoples' Rights), and Romania (art. 20).

Finally, in five countries, the constitution asserts an intention to assist the liberation of other nations from tyranny: Algeria (arts. 27 and 33), Angola (art. 16), Cuba (art. 12), Portugal (art. 7(3)), and Suriname (art. 7).

4. Constitutional Security against Home Invasion

National constitutions that include a Bill of Rights very frequently contain a provision protecting the right to security against home invasion. Sometimes — as in the United States' Fourth Amendment — the right is stated in terms that implicitly or explicitly apply only to home invasions committed by the government. Very frequently, however, the right is stated in terms that are not limited to government actors. For example, Afghanistan's constitution insists that "no one, including the state, is allowed to enter or inspect a private residence without prior permission of the resident or holding a court order." Constitution of Afghanistan art. 38.1-2. The Slovak constitution similarly combines protection against state action and non-government action:

- (1) A person's home is inviolable. It must not be entered without the resident's consent.
- (2) A house search is admissible only in connection with criminal proceedings and only on the basis of the judge's written and substantiated order. The method of carrying out a house search will be set out in a law.
- (3) Other infringements upon the inviolability of one's home can be permitted by law only if this is inevitable in a democratic society in order to protect people's lives, health, or property, to protect the rights and liberties of others, or to ward off a serious threat to public order. If the home is used also for business or to perform some other economic activity, such infringements can be permitted by law also when this is unavoidable in meeting the tasks of public administration.

Constitution of the Slovak Republic art. 21 (1992).

Other provisions protecting the home:

- Constitution of the Principality of Andorra art. 14: "No one shall enter a dwelling or any other premises against the will of the owner or without a warrant, except in case of flagrant delicto."
- Constitutional Law of the Republic of Angola art. 44: "The State shall guarantee the inviolability of the home. . . ."
- Constitution of Antigua and Barbuda ch. 2(3)(c): "protection for his family life, his personal privacy, the privacy of his home and other property. . . ."
- Constitution of the Republic of Armenia art. 21: "It is prohibited to enter a person's dwelling against his or her own will except under cases prescribed by law."

- Constitution of the Azerbaijan Republic art. 33.1-2: “With the exception of cases specified by Law or Court no one shall be authorized to enter the Apartment against the will of the Resident.”
- Bahamas Constitution ch. 3.15(c): “protection for the privacy of his home and other property. . . .”
- Constitution of the Republic of Belarus art. 29: “No person shall have the right, save in due course of law to enter the premises or other legal property of a citizen against one’s will.”
- Belgium Constitution art. 15: “The domicile is inviolable; no visit to the individual’s residence can take place except in the cases provided for by law and in the form prescribed by law.”
- Constitution of Belize art. II.9.1: “Except with his own consent, a person shall not be subjected to the search of his person or his property or the entry by others on his premises.”
- Constitution de la République du Bénin art. 20: “The domicile is inviolable. There may be no inspections or searches except according to the forms and conditions envisaged by the law.”
- Constitución Política de la República de Bolivia art. 21: “Every house is an inviolable asylum; at night, no one may enter without the consent of the inhabitants, and by day only by written authorization of a competent authority or in case of flagrante delicto.”
- Constituição Federal [C.F.] [Constitution] art. 5 (Brazil): “The home is the inviolable asylum of the individual; it is forbidden to enter except with the consent of those who live there, in case of a crime detected in the act, a disaster, or to give aid, according to a judicial determination.”
- Constitution of Bulgaria art. 33.2: “(2) Entering a residence or staying in it without the consent of its occupant or without the permission of the judicial authority may be allowed only for the purpose of preventing an imminent crime or a crime in progress, for the capture of a criminal, or in extreme necessity.”
- Constitution du Burkina Faso art. 6: “[T]he residence, the domicile, the private and family life, the secrecy of the correspondence of every person are inviolable.”
- Constitution de Burundi art. 23: “No one can be the subject of arbitrary interference [with] his private life, his family, his residence or his correspondence. . . . There may not be orders for searches or home inspections except by the forms and the conditions envisaged by the law.”
- Constitution of the Kingdom of Cambodia art. 40: “The rights to privacy of residence . . . shall be guaranteed.”
- Xianfa art. 39 (1982) (China): “Unlawful search of, or intrusion into, a citizen’s home is prohibited.”
- Congo Constitution art. 29: “The home is inviolable. There may not be inspections or searches except according to the forms and conditions envisaged by the law.”
- Constitución Política de la República de Cuba de 1976 art. 56: “Nobody can enter the home of another against his will, except in those cases foreseen by law.”
- Constitución Política de la República Dominicana de 2002 art. 8.3: “Inviolability of the home. No domiciliary inspection can be legitimate but in the cases anticipated by the law and with the formalities that it prescribes.”

Constitution of the Arab Republic of Egypt, 26 Dec. 2012 art. 39: “Private homes are inviolable. With the exception of cases of immediate danger and distress, they may not be entered, searched or monitored, except in cases defined by law, and by a causal judicial warrant which specifies place, timing and purpose. Those in a home shall be alerted before the home is entered or searched.”

Constitución Política de la República de El Salvador de 1983 art. 20: “The dwelling is inviolable and it will only be able to be entered by consent of the person who inhabits it, by judicial mandate, in case of a flagrant crime or imminent danger of its perpetration, or of serious risk to the people.”

Eritrea Constitution art. 18(2): “No person shall be subjected to unlawful search, including his home or other property.”

Constitution of the Republic of Estonia art. 33: “No one’s dwelling . . . shall be forcibly entered or searched, except in the cases and pursuant to procedure provided by law.”

Constitution of the Federal Democratic Republic of Ethiopia art. 26.1: “Everyone has . . . the right not to be subjected to searches of his home, person or property.”

Grundgesetz für die Bundesrepublik Deutschland (Basic Law) art. 13.1 (Germany): “The home is inviolable.”

The Grenada Constitution Order 1973 ch. 1.7: “Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.”

Constitución Política (Guatemala) art. 23: “The home is inviolable. No one can enter another’s dwelling without the permission of the inhabitants, except by written order of a competent judge, specifying the reason for the investigation, and never before 6:00 or after 18:00. Such investigation should be carried out in the presence of the person concerned, or his authorized representative.”

Constitution of Guyana art. 40.1(c): “[P]rotection for the privacy of his home and other property and from deprivation of property without compensation.”

Constitución Política de la República de Honduras de 1982 art. 99: “The domicile is inviolable. No entrance or search will be able to be authorized without consent of the person who inhabits it or approval of competent authority.”

Xianggang Jiben Fa art. 29 (Hong Kong): “Arbitrary or unlawful search of, or intrusion into, a resident’s home or other premises shall be prohibited.”

Qanuni Assasi Jumhurii Islamai Iran [The Constitution of the Islamic Republic of Iran] art. 22 [1980]: “The dignity, life, property, rights, residence, and occupation of the individual are inviolate, except in cases sanctioned by law.”

Irish Constitution (Bunreacht na hÉireann), 1937, art. 40.5: “The dwelling of every citizen is inviolable and shall not be forcibly entered save in accordance with law.”

Costituzione art. 14 (Italy): “(2) No one’s domicile may be inspected, searched, or seized save in cases and in the manner laid down by law.”

The Jamaica Order in Council 1962 [Constitution] art. 19.1: “Except with his own consent, no person shall be subject to the search of his person or his property or the entry by others on his premises.”

Constitution of the Hashemite Kingdom of Jordan art. 10: “Dwelling houses shall be inviolable and shall not be entered except in the circumstances and in the manner prescribed by law.”

- Kuwait Constitution art. 38: “Places of residence shall be inviolable. They may not be entered without the permission of their occupants except in the circumstances and manner specified by law.”
- Constitution of the Republic of Latvia art. 96: “Everyone has the right to inviolability of a private life, place of residence and correspondence.”
- Lebanese Constitution art. 14: “The citizen’s place of residence is inviolable. No one may enter it except in the circumstances and manners prescribed by law.”
- Constitution of the Republic of Liberia art. 16: “No person shall be subjected to interference with his privacy of person, family, home or correspondence except by order of a court of competent jurisdiction.”
- Libya Constitution art. 12: “The home is inviolable and shall not be entered or searched except under the circumstances and conditions defined by the law.”¹
- Constitution of Luxembourg art. 15: “No domiciliary visit may be made except in cases and according to the procedure laid down by the law.”
- Constitution of the Republic of Macedonia art. 26.1: “The inviolability of the home is guaranteed.”
- Constitution of the Republic of Madagascar art. 13.1: “Everyone shall be assured of protection of his person, his residence, and his correspondence.”
- Mongolia Constitution art. 16.13: “Privacy of citizens, their families, correspondence, and homes are protected by law.”
- Constitution of the Kingdom of Nepal art. 22: “Except as provided by law, the privacy of the person, house, property, document, correspondence or information of anyone is inviolable.”
- Constitución Política de la República de Nicaragua [Cn.] art. 26: “Every person has the right: 1. To his private life and that of his family. 2. To the inviolability of his domicile, his correspondence and his communications of all types.”
- Constitution of Nigeria (1999) art. 37: “The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected.”
- The White Book I. The Basic Law of the Sultanate of Oman art. 27: “Dwellings are inviolable and it is not permitted to enter them without the permission . . . except in the circumstances specified by the Law.”
- Constitución Política de la República de Panamá art. 26: “The domicile or residence is inviolable.”
- Constitución Política (Paraguay) art. 33: “Personal and family privacy, as well as respect for privacy, are inviolable.”; *id.* art. 34: “Every private enclosure is inviolable.”
- Constitución Política del Perú art. 2.9: Every person has a right “To the inviolability of the domicile.”
- Constituição de República Portuguesa art. 34: “The individual’s home and the privacy of his correspondence and other means of private communication are inviolable. . . .”

1. This is the relevant article from the Libyan constitution as it stood under Moamar Gaddafi’s government. As of July 2014, the Libyan people are still drafting their new constitution. However, there is some debate as to which individuals should actually be drafting the new provisions. In the meantime, Article 11 of the constitution promulgated by The Interim Transitional National Council after Gaddafi’s fall in 2011 reads as follows: “Dwelling houses and homes shall have their sanctity and they may not be entered or inspected except in cases prescribed by the law and according to the manner set forth therein.”

- Qatar Constitution art. 37: “The sanctity of human privacy shall be inviolable, and therefore interference into privacy of a person, family affairs, home of residence . . . may not be allowed save as limited by the provisions of the law stipulated therein.”
- Constitution of Romania art. 27.1: “No one shall enter or remain in the domicile or residence of a person without his consent.”
- Konstitutsiia Rossiiskoi Federatsii [Konst. RF] [Constitution] art. 25 (Russia): “No one shall have the right to penetrate the home against the will of those residing in it unless in cases provided for by the federal law or upon the decision of the court.”
- Constitution of the Republic of Rwanda art. 22: “A person’s home is inviolable.”
- Constitution of Saint Christopher and Nevis (St. Kitts & Nevis) art. 9.1: “Except with his own consent, a person shall not be subject to the search of his person or his property or the entry by others on his premises.”
- Constitution of Saint Lucia art. 7.1: (same as St. Kitts).
- Saint Vincent Constitution Order 1979 art. 7.1: (same as St. Kitts).
- Saudi Arabia Constitution art. 37: “The home is sacrosanct and shall not be entered without the permission of the owner or be searched except in cases specified by statutes.”
- Constitution of the Slovak Republic art. 21.1: “Entrance without consent of the person residing therein is not permitted.”
- Daehanminkuk Hunbeob [Constitution] art. 16 (S. Korea): “All citizens are free from intrusion into their place of residence.”
- Constitución Española art. 18.2, Dec. 29, 1978 (Spain): “The home is inviolable.”
- Constitution of Suriname art. 17.1: “Everyone has a right to respect of his privacy, his family life, his home.”
- Bundesverfassung [BV] [Constitution] Apr. 18, 1999, art. 13.1 (Switzerland): “Every person has the right to receive respect for their private and family life, home, and secrecy of the mails and telecommunications.”
- Syria Constitution art. 31: “Homes are inviolable.”
- Constitution of the Kingdom of Thailand §35: “The entry into a dwelling place without consent of its possessor or the search thereof shall not be made except by virtue of the law.”
- Constitution of the Republic of Trinidad and Tobago art. 4(c): “[T]he right of the individual to respect for his private and family life.”
- Tunisia Constitution art. 23: “The state protects the right to a privacy and the sanctity of domiciles, and the confidentiality of correspondence and communications, and personal information. Every citizen has the right to choose a place of residence and to free movement within the country and the right to leave the country.”
- Constitution of the Republic of Turkey art. 21.1: “The domicile of an individual shall not be violated.”
- Constitución Política de la República (Uruguay) art. 11: “The home is an inviolable asylum. At night nobody may enter without consent of the head of the house, and by day, only by express order of a competent judge, in writing and according to cases determined by the law.”
- Constitución de la República Bolivariana de Venezuela art. 47: “The domestic home and all private personal enclosures are inviolable.”

Constitution of the Socialist Republic of Vietnam art. 73.1-2: “No one is allowed to enter another person’s home without the latter’s consent, unless otherwise authorised by the law.”

Constitution of Zambia of 1991 art. 17.1: “Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.”

Constitution of Zimbabwe art. 17.1: “Except with his own consent . . . no person shall be subjected to the search of his person or his property or the entry by others on his premises.”

NOTES & QUESTIONS

1. *Right to arms provisions in other nations’ constitutions.* As you have seen, express protections of the right to keep and bear arms are relatively uncommon in national constitutions, in comparison with other types of related rights provisions (e.g., right of self-defense, right to security of the home). Why do you think that is?
2. Why do you think that the three nations listed in Section A.1 above (and the United States) *do* expressly recognize a right to arms? Is it significant that all four nations are located in the Western Hemisphere?
3. Textually, how do the rights to arms recognized in the Guatemalan, Haitian, and Mexican Constitutions compare with the Second Amendment of the United States Constitution? With the Second Amendment as construed by *District of Columbia v. Heller* (Chapter 9) and *McDonald v. City of Chicago* (Chapter 9)? With U.S. state constitutional rights to arms provisions (Chapter 1)?

Note that the portions of the other nations’ constitutions that correspond to the right to “bear arms” in the Second Amendment describe the right as “el derecho de portación de armas” (Spanish); “droit au port d’armes” (French). These phrases plainly refer to the personal carrying of weapons, distinct from the right to possess arms for self-defense in the home.

Do the usages in other North American constitutions shed any light on the debate about whether the Second Amendment right to “bear arms” means carrying weapons outside the home? On whether the right to carry can be more heavily regulated outside the home? Do differences in text, history, and/or language render such cross-national comparisons of no value in interpreting the Second Amendment?

4. *Derivative or penumbral rights.* Explicit constitutional rights to arms are less common internationally than rights to be secure against home invasion. But is it plausible that the right to be secure against home invasion should include some implicit, derivative rights to resist home invasion yielding, for example, a derivative right to door and window locks? Would a right to possess common firearms to resist home invaders be a fair extension of the idea? Would it be a violation of that right if the government outlawed reinforced glass? Window bars? Dogs trained to attack intruders? Dogs

trained to raise an alarm? Defensive weapons, such as chemical sprays? Contact weapons, such as clubs or bats? What about firearms?

5. The Castle Doctrine of English common law (“That the house of everyone is to him as his castle and fortress, as well for his defense against injury and violence as for his repose.” *Semayne’s Case*, 77 Eng. Rep. 194, 195 (K.B. 1603)) was discussed in Chapter 2. Is it analogous to the explicit home protection provisions of the national constitutions?
6. Is *District of Columbia v. Heller’s* (Chapter 9) strong protection of self-defense inside the home consistent with international norms?
7. The actual practices of many nations diverge considerably from what their written constitutions require. For example, although many constitutions strongly guarantee the inviolability of the home, warrantless intrusions by police may be common. Likewise, as detailed *infra*, Mexico’s current laws on arms control are vastly more restrictive than what the Mexican Constitution seems to allow. Does this prove that constitutions are unimportant? Are certain human rights so universally respected that even oppressive governments at least pay lip service to them?
8. Tunisia’s constitution was ratified in January 2014. Tunisia’s previous constitution, which was in place under a kleptocratic regime, stated that “The inviolability of the home and the secrecy of correspondence are guaranteed, save in exceptional cases established by the law.” Tunisian Const. of 1956, art. 9. As a purely textual matter, what is the difference between the two provisions? Does the type of regime under which the constitution exists influence your view as to which you would prefer?

B. Multinational Comparative Studies of the Effects of Private Gun Ownership on Crime and Violence

Arguments about American firearms policy often refer to the experiences of other countries. It is natural to assume that policies or practices that work in one nation will translate into another. What do we find when we compare American crime rates (and other social ills such as suicide), not with a few isolated examples of other countries, but with a broad range of jurisdictions that have varying levels of gun regulation and rates of gun ownership?

The comparative studies excerpted below try to assess the relationship between firearms policy and outcomes across nations. In reading them, pay attention to the correlations (and lack of correlations!) that each study claims. Consider the arguments that each study makes about whether the correlations are *caused* by the rate of gun ownership in each country.

All the studies examine gun density as a variable among nations. One of the difficulties of conducting such studies is estimating the actual number of

firearms in a nation. Many governments have gun registration data, but the data by definition include only the guns that have been registered with the government. Especially when the government makes it difficult or expensive for people to acquire firearms lawfully and register them, the number of firearms in a nation may vastly exceed the number of registered firearms. Mexico, *infra* Section C, is a case in point, in which unregistered guns comprise the vast majority of the gun stock. Professor Johnson's article, *infra*, provides a litany of other nations where unregistered guns far outnumber registered ones—based, of course, on rough estimates of the quantity of unregistered guns.

Some scholars, such those at the Small Arms Survey (a research institute in Geneva, Switzerland), start with registration data, and then use other sources to estimate the total gun supply in a nation. (The Kopel et al. article, *infra*, relies on the Small Arms Survey for national data.)

Another source for estimates is annual data about firearms manufacture, imports, and exports in a particular nation. Online Chapter 12 uses over half a century of U.S. data to estimate the U.S. gun supply. In most nations, however, the long-term data on manufacture, imports, and exports are not nearly so complete.

Some scholars, such as Professor Gary Kleck, dismiss the Small Arms Survey figures as near-worthless and prefer to use “Percentage Gun Suicide” (PGS) to estimate the firearms inventory. Under this approach a country where 18 percent of suicide victims use guns would presumably have nine times more guns per capita than a country where 2 percent of suicides were committed with guns. PGS is considered a reasonably valid indicator of gun availability in the general population.

Because suicide itself is far more prevalent among older males than among the general population, however, PGS might be more representative of gun possession within this group, rather than of the general population. In addition, one unexplored subject of research is whether, from country to country, there are different attitudes and influences affecting the use of guns as suicide instruments such that people in countries with relatively equal gun inventories would be differently inclined to use guns in suicide.

Martin Killias, lead author of the first study in this section, uses telephone surveys for his estimates of gun ownership. One advantage is that the survey can compile precise information about the number and type of guns in each household. The disadvantage is that many telephone respondents will refuse to disclose gun ownership to an unseen stranger. As Chapter 12 details, the nonresponse issue is a problem in estimating gun ownership in the United States. It may be an even greater problem in nations where gun ownership is less pervasive, less an accepted part of the nation's culture, or legally unprotected. For example, data indicate that in Great Britain, approximately half of the guns are owned illegally. David B. Kopel, *The Samurai, the Mountie, and the Cowboy: Should America Adopt the Gun Controls of Other Democracies?* 89-90 (1992). There is no empirical research on whether false denial rates vary significantly from one nation to another. Indeed, it would be all but impossible to assemble reliable empirical data on this question absent the use of forced searches and other methods that would be unconstitutional in the United States; after all, if a gun owner is willing to lie about owning a gun, he or she would presumably be willing to lie about having lied about owning a gun.

Keep these points of uncertainty in mind as you read the following studies. It may help you to appreciate how different researchers take different approaches to an oft-vexing challenge in social science and the challenge of assembling data worth analyzing.

Following are the definitions of some of the specialized terms you will encounter in the articles. You may also find this knowledge useful in other professional contexts. Although law schools rarely offer training in social science statistics, attorneys who practice in fields involving public policy often need to be able to understand social science articles, and to present the findings of such articles to a court.

Significance. In general usage, “significant” means about the same as “important” or “meaningful.” Relatedly, the term “statistically significant” is widely misunderstood to mean something akin to “measurable” or “observable.”

The statistical meaning is much more precise. When a social science study shows a correlation between two things (e.g., the rate of heart attacks on a given day, and whether the temperature that day was above 100 degrees Fahrenheit), the question arises whether it is due simply to chance. Statisticians use well-established formulas to estimate the probability that the correlation is random.

Usually, a result is said to be “significant” (or *statistically significant*) if the significance test’s result is 0.05 or lower.³ In other words, there is a 95 percent probability that the correlation of the two things is not explained by mere chance, *assuming that no confounding factors — unknown outside influences — are skewing the results.* As a matter of standard practice, a correlation that is not statistically significant is ignored — that is, it is treated as if it does not exist, as if there is no correlation.

Confounding factors can be eliminated fairly well in controlled laboratory experiments. But it is exceedingly difficult to eliminate the effect of outside variables in other contexts because it is impossible to compare real-world data — say, data obtained in a world where firearms exist — to equivalent data obtained from a counter-factual world — say, one in which firearms do not exist. That it is often difficult to estimate even those variables which the researcher intends to include in the study makes things even less certain.

It is important to remember that a mere finding of significance is not certain proof. There may be other factors that explain the relationship. For example, in the United States, Blacks have a much higher rate of being convicted for felonies than do Whites. The racial difference is statistically significant. However, this does *not* prove that race differences cause difference in crime rates. For example, it might be that other factors (e.g., poverty rates, education levels, unemployment levels, broken families, harsher treatment of Blacks by the criminal justice system, etc.) account for all or most of the Black/White differences.

In addition, the fact that a correlation is statistically significant does not mean that it is *practically significant*. Practical significance, unlike statistical significance, is a measure of how important or meaningful an effect is.

3. Sometimes, a looser standard of 0.10, or a more stringent standard of 0.01, is used.

For example, there may be a statistically significant correlation between the number of letters in one's name and the number of sunny days in those people's neighborhoods, but, as common sense suggests, this finding has no practical significance.

Confidence interval. Statistical significance is sometimes expressed as a range of values, and the result of an experiment is said to be significant if it is *outside* the "95-percent confidence interval."

p-value. Often referred to simply as "*p*." The probability that the results are as extreme as those found — or more extreme (again, assuming no confounding variables). If *p* is less than 0.05 (in other words, the probability that the results are due to chance is less than 5 percent), then the results are considered significant.⁴

r. The *r* is the strength of the correlation of two variables. It is important to distinguish *r* (strength of correlation) from *p* (probability that the correlation is not due to random chance). A weak correlation can still be statistically significant. For example, even though drunk driving is very dangerous, the majority of drunk driving events do not result in accidents. Thus the *r* will be low (closer to 0 than to 1) for both sober and drunk driving. If drunk driving events always resulted in an accident, then *r* would be 1. But we also know that driving drunk markedly increases the chances of an accident relative to sober driving, so it is not surprising that the correlation between drunk driving and an increase in accident rates is statistically significant. That is, $p < 0.05$.

N. The sample size. If you perform a study of 150 people, or 150 nations, then $N = 150$.

Spearman's rho. The same as *Spearman's rank correlation coefficient*, and similar to *r*. Sometimes the shorthand *rho* is used. In a formula, the shorthand is r_s . This is a formula for calculating the correlation between two things. The result will be between -1 and 1. If the two things are closely correlated (e.g., the number of fans in a football stadium vs. the decibel level of crowd roars), then Spearman's rho will be close to 1. If the two things are inversely correlated (e.g., obeying all traffic laws while driving vs. auto accident injury), then Spearman's rho will be close to -1. If the two things have little correlation (e.g., sunspot activity vs. whether the National or American League wins the World Series), then Spearman's rho will be close to 0.

Pearson's r. Serves the same purpose as *Spearman's rho*, but the formula is different. *Pearson's r* is a formula for measuring the direction and the magnitude

4. For example, suppose a population consists of 50% Republicans and 50% Democrats, but the statistician does not actually know this. A sample of 10 voters is drawn, and merely by luck, it contains 7 Republicans and 3 Democrats. The statistician's best guess is that the population is actually 70% Republican, but it is also possible that the population is really 90% Republicans or 10% Republicans or any other value, and the sample just happens by luck to differ from the population. A finding of statistical significance is a finding that results as extreme as those found — or more extreme — would be found less than 5% of the time, given some initial guess (the *null hypothesis*, often referred to simply as the *hypothesis*) about the population from which a sample was drawn. If the initial guess about the population was that it was 10% Republican and 90% Democrat, then it would be quite unlikely to draw a random sample of 10 people consisting of 7 Republicans and 3 Democrats, and the precise probability that this would occur is *p*-value.

of the correlation between two variables. If increases in X are correlated with increases in Y, then the correlation of X and Y moves in the same direction. If a 50 percent increase in X is correlated with a 50 percent increase in Y, then the magnitude of the correlation is high. The *Pearson's r* formula produces a number between -1 and 1. If the number is positive, then the direction is the same. If the number is close to -1 or 1, and far from 0, then the magnitude of the correlation is high.

Variance and standard deviation. Ways of measuring the range over which a set of numbers is spread out. A higher value indicates that the numbers are more dispersed.

Type-I and Type-II errors. The probability of a Type-I error is the probability that a study's authors conclude that a correlation exists where in fact there is no correlation. Where the standard 0.05 significance level is used as the decision rule, the probability of a Type-I error is 5 percent. The probability of a Type-II error is the probability that a study's authors conclude that a correlation does not exist where in fact one does exist. The probabilities of Type-I and Type-II errors are inversely correlated—as one increases, the other decreases. Type-II errors can only be calculated for a given strength of correlation.

Martin Killias, John van Kesteren & Martin Rindlisbacher, Guns, Violent Crime, and Suicide in 21 Countries

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Research on the role of firearms in violence and fatal events has focused heavily on American data and research. This implies certain limitations, since the United States is one of the Western countries with exceptionally high homicide and gun ownership rates. Thus, the American context offers only limited variance in the most prominent independent as well as dependent variables.

International comparisons offer challenging new perspectives. This research is based on data on gun availability in private households, collected through the international victimization surveys of 1989, 1992, and 1996, and World Health Organization data on homicide and suicide from 21 countries. It updates and extends former research conducted on this issue, based on the surveys of 1989 and 1992. In addition, data from the International Crime Victimization Surveys were used on total and gun-related robbery and assault (including threats).

The results show very strong correlations between the presence of guns in the home and suicide committed with a gun, rates of gun-related homicide involving female victims, and gun-related assault. The picture is different for male homicide, total rates of assault, and generally, for robbery (committed with or without a gun). With the exception of robbery, most correlations are similar or stronger when all types of guns are considered, rather than handguns alone. Interestingly, no significant correlations with total suicide or homicide rates were found, leaving open the question of possible substitution effects. It is concluded that guns in the home are an important risk factor in suicide with guns, as well as a threat to women (especially female partners), whereas their role in homicide of male victims and street crime (such as robbery) may be much less prominent. Finally, the usual focus on handguns may lead to underestimate the role of other types of guns.

BACKGROUND

Over many years, the role of guns has been debated, particularly within the United States (Wright, Rossi, and Daly 1983; Zimring and Hawkins 1987; Kleck 1991). Within a situational perspective, guns (just as other means to commit crime) should increase the likelihood of their criminal use in the same way as access to toxic gas or other means increases the frequency of other crimes (Clarke and Mayhew 1980) or suicide (Clarke and Lester 1989). As far as homicide and access to guns (or gun ownership) is concerned, most research has been based on cross-sectional comparisons of two cities, such as Seattle and Vancouver (Sloan, Kellermann, Reay, Ferris, Koepsell, Rivara, Rice, Gray and LoGerfo 1988), or on data from the United States where, however, the variation (across States, counties or regions) in relevant dependent and independent variables is relatively limited. Time-series analyses (such as Carrington and Moyer 1994, or Loftin, McDowell, Wiersema, and Cottey 1991) certainly allow to assess with some precision the effects of new gun control laws, although such laws may not necessarily affect the number of guns in circulation, or the percent households owning one or more guns. The effect of guns in the home on fatal events (homicide or suicide) and violent crime may be rather hard to assess without direct measures of gun ownership (as in many of the studies reviewed by Cook 1991), and without data from countries with highly variable prevalence rates of guns, homicide, gun-related violent crime, and suicide (Haen 2000). As former studies based on World Health Organization (WHO) data have shown, even industrialised nations vary dramatically with respect to homicide and suicide rates (Krug, Powell, and Dahlberg 1998). The same is true for gun ownership rates, since—in the present sample—the percent of households with one or more guns varies between 2.0 (in the Netherlands) and 49.1 percent (in the USA).

Using data from the 1989 and 1992 international crime surveys (van Dijk, Mayhew, Killias 1990) as well as WHO data on homicide and suicide, the first author has presented correlations between these variables in international perspective (Killias 1993a; 1993b). The results, based on data from 14 (1993a) and 18 countries (1993b), showed that gun-related suicide is highly correlated with gun ownership ($r = .858$, $N = 16$; $\rho = .922$, $N = 18$), whereas the correlation was more moderate for homicide committed with a gun ($r = .476$, $N = 16$; $\rho = .542$, $N = 18$). The correlation between gun ownership and total rates of suicide and homicide turned out to be rather weak (in the range, for r and ρ , between .353 and .441), and the coefficients were (with one exception) not significant (at the .05 level). Between gun ownership and overall measures of violence, no consistent correlation was found (van Kesteren 2000).

Within these former studies, a certain number of issues could not be dealt with, given the lack of available data. First of all, the number of countries included in the study was relatively limited. Second, the data on gun ownership were collected in 1989 or in 1992, whereas the WHO data for homicide or suicide included, for 14 countries, the years 1983 to 1986. If gun ownership is considered as the independent variable, it would have been desirable to use data for the same year for which gun ownership has been measured, or eventually for the following years. Finally, some additional information on the circumstances of homicide might have been desirable.

THE PRESENT STUDY

In 1996, the International Crime Victimization Survey (ICVS) was repeated in a number of countries, and extended to additional nations where no such survey had ever taken place in the past. This allows to extend the present study to 21 countries overall, using data on gun ownership (i.e., households owning at least one gun) from three sweeps of the ICVS. For 18 countries, data were available also on the kind of gun owned, i.e., on whether it is a rifle (long gun) or a handgun. To the extent that data on gun ownership were available for the same country and several years, they usually showed remarkable stability, suggesting high validity of this measure. The fluctuations usually remained within the limits of confidence intervals and should, therefore, not necessarily be seen as an indication of any particular trend.

Data on homicide and suicide (total and gun-related) have been obtained from WHO sources. Unlike earlier studies, the present data differentiate for male and female victims. Data from the European Sourcebook of Crime and Criminal Justice Statistics (Council of Europe 1999:43) confirm that police and WHO measures of homicide are highly correlated: for the years at stake (1990 to 1995), the correlations (r) varying between .89 and .96 (at least 23 countries having provided relevant data). Thus, it is unlikely that results will change if, instead of data from health statistics, police data on homicide are used.

WHO data suffer, however, from a number of shortcomings. First, some countries indicate, only for a minority of cases, whether or not the homicide (or suicide) was committed by either a handgun or a rifle, putting the majority of cases into a residual category (“unidentified or other guns”). This makes it difficult to correlate handgun ownership with handgun-related incidents alone. Second, the WHO data base suffers, despite all efforts from WHO Headquarters, from delays due to slow processing of relevant data by a number of countries (including some within the Western hemisphere). The authors have tried to complete the data from national sources. For some countries, it was possible to use data which were provided to the first author in connection with the European Sourcebook on Crime and Criminal Justice Statistics project. Table 1 gives the list of countries included in the present study, with the details on what kind of data and sources have been used (and for what years). Wherever possible, the authors have computed the rates of suicide and homicide using data for three years, i.e., the year of the ICVS gun ownership rate used plus the following two years.

The data on gun-related and total assault and robbery have been taken from the ICVS database. Total rates of assault/threat and robbery refer to the years for which data on gun ownership have been used (Table 1). Data on gun-related robberies were gathered during all three ICVS sweeps, for incidents which occurred over the last year. Concerning assault, only the 1996 questionnaire contained a follow-up question on whether a weapon (gun or other) had been used. Since national ICVS samples were rather small (ranging from 1000 to 2000 respondents), and given the low absolute frequencies of such incidents, the rates concerning robberies committed with a gun are based on the average of all sweeps available. No distinction was made in the questionnaire between robberies and assaults committed with rifles or handguns.

TABLE 1
Data on gun ownership and homicides/suicides: list of countries years and sources

| Country | Rates of ownership of guns (%) (Source: ICVS) | Rates of total suicides and total homicides ⁽¹⁾ (Source: UN Demographic Yearbook) | Rates of total suicides and total homicides by sex (average of the years used) ⁽²⁾ (Source: UN Demographic Yearbook) | Rates of suicide with guns (average of the years used) ⁽³⁾ (Source: WHO) | Population: Available Years (Source: U.S. Bureau of the Census, International Database) |
|------------------|--------------------------------------------------|-------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| Australia | 1992 | 1992-94 | 1994 | 1992-94 | 1995 |
| Austria | 1996 | 1996 | 1995 | 1996-97 | 1996-97 |
| Belgium | 1992 | 1992 | 1995 | 1992 | 1992 |
| Canada | 1992 | 1992-94 | 1995 | 1992-94 | 1992-94 |
| Czech Republic | 1992 | 1994 (homicide) 1992-94 (suicide) 1992-94 (homicide) | 1994 (homicide) 1993-94 (suicide) 1992-94 (homicide) | 1994 (homicide) 1993-94 (suicide) | 1992-94 |
| England & Wales | 1992 | 1991 (suicide) | - (suicide) | 1992-94 | 1992-94 |
| Estonia | 1992 | 1994-95 | 1995 | 1994-95 | 1994-95 |
| Finland | 1992 | 1994 (homicide) | 1995 | 1994 (homicide) | - |
| France | 1989 | 1996 (suicide) | 1994 | 1996 (suicide) | 1989-91 |
| Italy | 1992 | 1989-91 | 1994 | 1989-91 | 1992-93 |
| Malta | 1996 | 1992-93 1992-94 | 1993 1994 | 1992-93 1992-94 | 1992-93 1992-94 |
| Netherlands | 1989 | 1989-91 | 1995 | 1989-91 (homicide) | 1989-91 |
| New Zealand | 1992 | 1992-94 | 1994 | 1989-90 (suicide) | 1992-94 |
| Northern Ireland | 1989 | 1989-91 | 1992-94 | 1989-91 | 1989-91 |
| Norway | 1989 | 1989-91 | 1994 | 1989-91 | 1989-92 |
| Scotland | 1989 | 1989-91 | 1992-94 | 1989-91 | 1990-91 |
| Spain | 1989 | 1989-91 | 1994 | 1989-91 | 1989-91 |

| Country | Rates of ownership of guns (%) (Source: ICVS) | Rates of total suicides and total homicides ⁽¹⁾ (Source: UN Demographic Yearbook) | Rates of total suicides and total homicides by sex (average of the years used) ⁽²⁾ (Source: UN Demographic Yearbook) | Rates of suicide with guns (average of the years used) ⁽³⁾ (Source: WHO) | Population: Available Years (Source: U.S. Bureau of the Census, International Database) |
|--------------|--------------------------------------------------|-------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| Sweden | 1992 | 1992-94 | 1995 | 1992-94 | 1992-94 |
| Switzerland | 1996 | 1995-96 | 1995-69 | 1996 (suicide) 1995-96 (suicide) | 1995-96 |
| West Germany | 1989 | 1989-90 | - | 1989-91 | 1990-91 |
| USA | 1989 | 1989-91 | 1994 | 1989-91 | 1989-91 |

Notes for table 1:

¹ Rates of total suicides and total homicide

-Czech Republic: For homicide no data available for 1992-93.

-England and Wales: For suicide no data available for 1992-1994; source for data on homicide: European Sourcebook 1999.

-Finland: See under 3 (below).

-West Germany: No data available for 1991.

² Rates of total suicides and total homicides by sex

All data according to the UN Demographic Yearbook of 1996 (special edition). Exception: Data of Czech Republic.

³ Rates of suicides/homicides with guns

-Czech Republic: Homicide: No data available for 1992-93. Data by sex not available for this period.

-Suicide: No data available for 1992.

-Estonia: Including homicides caused by explosives and bombs.

-Finland: Homicide: Source: UN International Study on Firearm Regulation (N.Y. 1998, Sales No. E.89.IV.2). No data available for 1992-93. Homicides caused by explosives and bombs are included.

-Norway: Source: [Centers] for Disease Control and Prevention (CDC) of 1996. No data available for 1992-94.

-W. Germany: Source for data on suicide: Statistisches Bundesamt.

THE ANALYSIS

In order to assess the effect of the presence of privately owned guns on the dependent variables, correlations have been computed using the data from all countries on which the necessary data could be located. Due to missing data, the number of countries included varies between 11 and 21.

Since suicide as well as homicide and violent crime will be considered, and given the explorative character of the present study, no control variables (other than gender) have been considered. As stated in the former study (Killias 1993b), the introduction of any third (control) variable is legitimate only if there is some theoretical plausibility that such a variable might affect the independent and the dependent variable; in the present case, such a variable would have to affect gun ownership as well as — simultaneously — homicide and suicide, as well as robbery and assault. Whereas violent cultures may promote gun ownership as well as high rates of violent crime, no variable came to our minds which might similarly explain high levels of gun ownership *and* suicide.

Correlational analysis has to face the problem of outliers. The treatment of extreme cases has always been a matter of debate. In the present study, they have been included in the first place, and then excluded in a second step. Pearson's *r* as well as Spearman's rho (rank order correlation coefficient) have been computed. Tables 2 and 3 give all coefficients for the full sample of 21 countries (or those with complete data), as well as Pearson's *r* for the remaining countries once outliers are removed.

RESULTS

SUICIDE

Table 2 shows the correlations between gun ownership and suicide with guns and in general, as well as for men and women considered separately. Both variables vary widely among the 21 countries, with very low gun ownership rates in several European countries (Netherlands, England and Wales, Scotland, Czech Republic) and very high ones in the USA, Switzerland, and Norway.

TABLE 2
Correlations between gun ownership and suicide, homicide, assault,
and robbery in the 21 countries

| | <i>R with outliers</i> | <i>R without outliers</i> | <i>Spearman's rho</i> |
|---------------|------------------------|---------------------------|-----------------------|
| Suicide | .0969 | .3575 | .2519 |
| (total) | (N = 21) | (N = 20) | (N = 21) |
| | p = .676 | p = .122 | p = .271 |
| Suicide women | -.0678 | -.0678 | -.0175 |
| (total) | (N = 19) | (N = 19) | (N = 19) |
| | p = .783 | p = .783 | p = .943 |
| Suicide men | -.0067 | .2500 | -.1044 |
| (total) | (N = 19) | (N = 18) | (N = 19) |
| | p = .978 | p = .317 | p = .670 |

| | <i>R with outlyers</i> | <i>R without outlyers</i> | <i>Spearman's rho</i> |
|-------------------------|--------------------------------|--------------------------------|--------------------------------|
| Suicide with gun | .8481 (N = 21) p = .000 | .7823 (N = 20) p = .000 | .7922 (N = 21) p = .000 |
| Suicide with gun women | .8292 (N = 20) p = .000 | .7295 (N = 19) p = .000 | .7579 (N = 20) p = .000 |
| Suicide with gun men | .8422 (N = 20) p = .000 | .8422 (N = 20) p = .000 | .7353 (N = 20) p = .000 |
| Homicide (total) | .0123 (N = 21) p = .958 | .2443 (N = 18) p = .328 | .2753 (N = 21) p = .227 |
| Homicide women (total) | .1139 (N = 18) p = .653 | -.0959 (N = 17) p = .714 | .0134 (N = 18) p = .958 |
| Homicide men (total) | -.0538 (N = 19) p = .827 | -.2250 (N = 17) p = .385 | -.0684 (N = 19) p = .781 |
| Homicide with gun | .2320 (N = 21) p = .312 | .5439 (N = 16) p = .029 | .3300 (N = 21) p = .144 |
| Homicide with gun women | .6139 (N = 19) p = .005 | .7242 (N = 16) p = .002 | .5145 (N = 19) p = .024 |
| Homicide with gun men | .2055 (N = 19) p = .399 | .2356 (N = 16) p = .380 | .4351 (N = 19) p = .063 |
| Assault | .3247 (N = 21) p = .151 | .3247 (N = 21) p = .151 | .2105 (N = 21) p = .360 |
| Assault with gun | .7156 (N = 13) p = .006 | .5706 (N = U) p = .067 | .4780 (N = 13) p = .098 |
| Robbery | -.0299 (N = 21) p = .898 | -.0715 (N = 18) p = .778 | -.0339 (N = 21) p = .884 |
| Robbery with gun | .4783 (N = 21) p = .028 | .0643 (N = 19) p = .794 | .2581 (N = 21) p = .259 |

The correlation between gun ownership (i.e., percent households with one or several guns) and gun suicide rates is very strong ($r = .85$, $\rho = .79$, $p < .05$), as in the earlier study (Killias 1993b). If the United States (as an extreme case) is excluded, the correlation is only marginally weaker (.78). Therefore, the pattern is not contingent on the inclusion of this country.

If suicide with guns is considered for women and men separately, the picture is surprisingly similar. (Data on female and male victims of suicide with guns could not be located for Finland.) Although the correlation ($r = .83$, $p < .05$) is slightly inflated by the extreme score of the USA, it remains very high even if this country is removed ($r = .73$, $p < .05$). In the case of men, the

correlation is similarly strong ($r = .84$), with no extreme cases in the distribution. Therefore, we can conclude that gun-related suicides are highly correlated with gun ownership rates, even for women and despite the fact that shooting is not among the suicide methods favored by women.

If gun ownership is correlated with total suicide rates, i.e., including all cases where other means were used, the correlation is not significant (Table 1). The rather weak correlations ($r = .10$, $\rho = .25$, ns⁵) are probably due to the low proportion of suicides committed with guns. Since less than one suicide in five is committed with a gun in most countries, even a strong impact on the subcategory of gun-related suicide may only moderately influence total rates of such events. The effect of gun ownership on total female suicide is even negative ($r = -.07$, $\rho = -.02$, ns), due [to] the very low percentage of female suicides committed with a gun (less than 10 percent in virtually all countries, with the exception of the USA).

The picture changes slightly if Estonia, an extreme outlier, is removed from the analysis. For the 20 remaining countries, the correlation is more substantial, although not significant ($r = .36$, $p < .122$). Given the small size of this sample, it may, however, not be warranted to rule out any potential (slight) impact of gun-related suicide on overall suicide rates.

If suicide is correlated with ownership of handguns (Table 3), rather than guns in general, the correlations remain in the same order of magnitude, i.e., very high for gun-related suicide ($r = .75$, $p < .05$) and weak ($r < .11$, ns) for total rates of suicide. The rank order correlation (ρ) is more substantial ($\rho = .49$, $p < .025$), suggesting again some possible impact on overall suicide rates.

HOMICIDE

When the USA, Estonia, and Northern Ireland are included in the analysis, the correlation remains non-significant ($r = .23$, $\rho = .33$, ns, *see* Table 2), pointing to a disproportionate effect of the few countries with extreme scores. If Estonia, the Czech Republic, and Italy (all with very high rates of gun-related homicides, often committed in connection with organised crime), Northern Ireland (with a civil war, during the years under consideration), and the USA (as an extreme case) are excluded, gun ownership is moderately but significantly correlated with homicide committed with a gun ($r = .54$, $p < .05$).

The real surprise comes when rates of homicide with guns are considered for men and women separately. See footnote 2 in Table 1, page 282. According to the correlations given in Table 2, homicide with a gun is substantially correlated with homicide of women ($r = .61$, $p < .005$), but only weakly in the case of men ($r = .21$, ns). If Estonia, the USA (with scores two to four times those of the highest scoring among the remaining countries) and Malta (with no female victim of shooting) are excluded, while Italy and Northern Ireland (with “normal” scores of female gun homicide) are included, the correlation for

5. [ns = not significant. — Eds.]

female gun homicides becomes as strong ($r = .72$, $p < .002$) as for suicide. For men alone, the correlation is far from being significant ($r = .24$, $p < .38$); this analysis includes Malta (with no female, but several male victims of shootings), but excludes Northern Ireland because of the civil war situation (which heavily affected male homicide rates), the USA and Estonia (as outliers). The rank-order coefficient is stronger and nearly significant ($\rho = .44$, $p < .06$), however. Given the small size of the sample, it would not be reasonable to conclude that guns are totally unrelated to rates of male homicide with guns, but this correlation is obviously much weaker than for females. Some reasons for this difference will be presented in the discussion.

For total homicide rates, the situation is similar to suicide, i.e., no significant correlation emerges ($r = .01$). This is true overall as well as for homicide of men and women considered separately (see the coefficients in Table 2). The fact that Spearman's ρ is also not significant ($\rho = .28$, $p < .23$) shows that this is not just a matter of the extreme scores of a few countries. The reason for the absence of any significant correlation may be similar to suicide, i.e., the proportion of shootings among all homicides is, with the exception of the USA, Estonia, and Northern Ireland, just too low to translate into any substantial increment in total homicide rates if shootings are increasing or decreasing. For female homicide victims, e.g., the proportion of shootings, is, on average of the countries considered, only 27 percent.

If rates of homicide actually committed with handguns (rather than guns in general) are correlated with handgun ownership, the correlations change only minimally (Table 3). Thus, it seems that the kind of guns has almost no impact on rates of gun-related homicide. Some possible reasons will be given in the discussion.

ASSAULT

Assault committed with a gun is strongly correlated with gun ownership ($r = .72$, $p < .01$, Table 2). Rates of assaults (including threats) committed with guns will be given per 1000 respondents (weighted according to the ICVS procedure, based on usual demographic variables). Since information on the weapon used was collected only in the 1996 ICVS, the following analysis is based only on those 13 nations which participated in that sweep.

In this distribution, the Pearson correlation ($r = .72$, $p < .05$, Table 2) is obviously inflated by the extreme position of the USA, as the more modest score of Spearman's ρ ($.48$, $p < .10$) underlines. But even if the USA and Northern Ireland are excluded, a clear pattern emerges, with a substantial r ($.57$, $p < .07$). Given the small size of the samples, including only 13 and 11 countries, respectively, it seems reasonable to relax the requirement for statistical significance to the .10 level, in order to avoid excessive type-II errors.

When the rate of assaults and threats in general, i.e., committed with and without guns, is considered, the correlation is modest ($r = .32$, $\rho = .21$) and not significant ($p < .15$). There are no outliers in the distribution.

TABLE 3
**Correlations between handgun ownership and homicide (incl. homicide with handguns),
 suicide, assault and robbery in the 21 countries**

| | <i>R with outliers</i> | <i>R without outliers</i> | <i>Spearman's rho</i> |
|--------------------------------|-------------------------------|--------------------------------|--------------------------------|
| Suicide (total) | .1050 (N = 21) p = .651 | .1050 (N = 21) p = .651 | .4862 (N = 21) p = .025 |
| Suicide women (total) | .0314 (N = 19) p = .898 | .0314 (N = 19) p = .898 | .2621 (N = 19) p = .278 |
| Suicide men (total) | .0580 (N = 19) p = .813 | .0580 (N = 19) p = .813 | .3484 (N = 19) p = .144 |
| Suicide with gun | .7454 (N = 21) p = .000 | .6710 (N = 20) p = .001 | .7380 (N = 21) p = .000 |
| Suicide with gun women | .9187 (N = 20) p = .000 | .6735 (N = 19) p = .002 | .6325 (N = 20) p = .003 |
| Suicide with gun men | .7451 (N = 20) p = .000 | .7451 (N = 20) p = .000 | .7350 (N = 20) p = .000 |
| Homicide (total) | .1577 (N = 21) p = .495 | -.0331 (N = 18) p = .896 | .0377 (N = 21) p = .871 |
| Homicide women (total) | .3352 (N = 21) p = .174 | .0327 (N = 16) p = .904 | .0787 (N = 18) p = .756 |
| Homicide men (total) | .1437 (N = 19) p = .557 | -.0624 (N = 16) p = .818 | -.0712 (N = 19) p = .772 |
| Homicide with gun | .4597 (N = 21) p = .036 | .1338 (N = 18) p = .596 | .2992 (N = 21) p = .188 |
| Homicide with gun women | .8156 (N = 19) p = .000 | .6394 (N = 17) p = .006 | .6478 (N = 19) p = .003 |
| Homicide with gun men | .4145 (N = 19) p = .078 | .4145 (N = 19) p = .078 | .3497 (N = 19) p = .142 |
| Homicide with handgun | .3253 (N = 18) p = .188 | .3573 (N = 14) p = .210 | .3118 (N = 18) p = .208 |
| Homicide with handgun women | .6323 (N = 18) p = .005 | .5581 (N = 16) p = .025 | .4896 (N = 18) p = .039 |
| Homicide with handgun men | .2497 (N = 18) p = .318 | .0305 (N = 14) p = .918 | .2123 (N = 18) p = .398 |
| Assault | .1928 (N = 21) p = .402 | -.2290 (N = 20) p = .331 | .0183 (N = 21) p = .937 |

| | <i>R with outliers</i> | <i>R without outliers</i> | <i>Spearman's rho</i> |
|------------------|-------------------------------|--------------------------------|-------------------------------|
| Assault with gun | .8872 (N = 13) p = .000 | .4143 (N = 12) p = .182 | .4530 (N = 13) p = .120 |
| Robbery | .1176 (N = 21) p = .612 | .0235 (N = 18) p = .926 | .1005 (N = 21) p = .665 |
| Robbery with gun | .6658 (N = 21) p = .001 | -.0330 (N = 19) p = .893 | .1747 (N = 21) p = .449 |

In sum, the picture resembles what has been shown for homicide, i.e., substantial correlations between gun ownership and gun-related assaults/threats (at least once outliers are removed), and non significant, but not negligible positive correlations with overall homicide and assault rates, respectively. Some reasons for this similarity will be given below. Unfortunately, the small size of the national samples (with 1000 to 2000 respondents) and, concomitantly, the low absolute frequencies of gun-related and other assaults/threats do not allow to break down these rates for both sexes, as it has been done for homicide, or for place of occurrence (at home vs. elsewhere), although these data have been collected.

If assaults (including threats) are correlated with ownership of handguns (rather than guns in general), the correlation increases for gun-related incidents ($r = .89$, $p < .05$, Table 3), but mostly as a result of the unique position of the USA. Without this outlier, the correlation is not significant ($r = .41$, $p < .18$) and comparable to Spearman's rho (.45, $p < .12$) for all the 13 countries on which the relevant data are available. As for homicide, the correlations are similar when all types of guns are included, rather than handguns alone (for details, see Table 3).

ROBBERY

The ICVS questionnaire included a follow-up question on the weapon an assailant had used in a reported robbery. No distinction was made between several types of guns, given the low absolute frequencies of reported incidents. All 21 countries collected the necessary data.

Obviously, the substantial correlation between robbery and handgun ownership rates ($r = .67$, $p < .05$) is due only to the extreme position of the USA, whereas the rank-order correlation ($\rho = .17$) is far from being significant (Table 3). If the USA and Italy are removed from the analysis, the correlation drops to zero ($r = -.03$, Table 3). For total rates of robbery, the correlation is negligible ($r = .12$, $\rho = .10$, ns), even if the USA are left in the analysis (due to "opposite" extreme positions of Estonia and Spain). If these two outliers are excluded, along with the USA, the correlation remains zero ($r = .02$). Therefore, there is no correlation whatsoever between robbery and handgun ownership across the 18 remaining countries (Table 3).

Interestingly, rates of robbery (either committed with or without guns) are less correlated with gun ownership in general (Table 2), than with ownership of

handguns (Table 3). Thus, the trend differs from what has been shown in relation to assault and homicide. Some reasons will be seen in the following paragraph.

DISCUSSION

The data have shown that gun ownership is highly correlated with suicide committed with a gun. It may be hard to think here of any “reversed” direction of causality. It does not make sense that a high frequency of gun-related suicides should motivate people to buy and keep guns in their homes, often years before any such act will — if ever — be planned or carried out.

Therefore, it is much safer to conclude that guns kept in the home are a risk factor, as suggested by research on the role played by guns in the home in suicide (Kellermann, Rivara, Somes, Reay, Francisco, Banton, Prodzinski, Fligner and Hackman 1992). Guns may be important in suicide because of the coincidence of the place where they are usually kept (i.e., at home), and where the act most of the time occurs. This interpretation is consistent with the routine-activities approach (Felson 1998).

From this viewpoint, it makes sense that homicide committed with guns is much more strongly correlated with gun ownership when female victims are considered separately. At least in those Western countries that are represented in our sample, women are almost exclusively killed in conflicts related to their personal life, and often by actual or former partners (Massonnet, Wagner, and Kuhn 1990). Since such conflicts tend to occur at home, it is feasible that the role of guns is nearly as prominent in female homicide as it is in connection with suicide. In many cases of female homicide, the offender will indeed subsequently commit suicide (Gabor 1994: 36, 76), or at least make an attempt. As for suicide, the decisive factor may be the coincidence of the location of the act and the place where the gun is usually stored. Again, a causal role of the gun in the home in such homicides seems much more plausible, than speculation on how media reports (or information from other sources) on shootings of female partners might push people (i.e., men, in most instances) to buy and keep guns in the home.

For male victims of homicide, the story may be different. Men tend to be killed much more often than women during the commission of other crimes, or in more “accidental” conflicts, which often take place in a public place or outdoors rather than at home (Maxfield 1989). Since such homicides are not always planned, offenders may not necessarily have the gun available at the critical moment. In events related to street crime, the use of guns may depend much more on the presence of guns among criminals, juvenile gangs, and those involved in illegal markets (Blumstein 1995) than on their prevalence in private homes. Thus, even if guns kept at home may occasionally be stolen and end in the hands of criminals, it may be fair to conclude that they affect the safety of women much more than that of men.

In this context, the results concerning assault and robbery offer further illustrations. It is a well-established fact that assault is, to a considerable extent, a “domestic” matter or involving acquaintances, whereas robbery typically occurs in the streets and hits unknown victims. Therefore, it is not surprising

that assault is related to guns in the home in a similar way as is homicide, whereas robbery depends much less on the presence of guns in private homes but on guns in the streets. Robbery also is the only violent act studied here where handguns seem to be more relevant than guns in general.

Thus, instrumental crimes, such as street robbery, may be committed with the best means available to those involved in such acts, whereas rifles and other long guns may be as dangerous as handguns in domestic violent acts. From this viewpoint, the current focus on handguns rather than guns in general may not be warranted.

Patterns in street crime, including the role of guns in such acts, may vary considerably across countries. As noted for homicide involving male victims, the prominence of criminal organisations, violent street gangs, and related “wars” over territory or market segments, may increase the frequency of shootings (fatal or not) far beyond what one might expect on the basis of a given country’s gun ownership rate. Italy, with its Mafia wars in the South, or Northern Ireland, with its civil war (during the years included here), as well as Estonia, the Czech Republic and probably other Eastern European countries (with high prevalence of organised crime), all have rates of male victims of shootings which far exceed what one might expect on the basis of national gun ownership rates. In sum, it seems that in some countries, plagued by civil wars or violent organized crime, the homicide rate is largely independent of the availability of guns in private homes. This may largely explain why measures of household gun ownership in crime victim surveys are less correlated with homicide rates than those which, as Cook’s (1991) index, use the prevalence of gun-related violent acts as an indicator of gun availability (Hemenway and Miller 2000).

Even if the correlations between gun suicide and gun homicide (of female victims) is very strong, certain substitution effects cannot be ruled out. Of course, it is consistent with a possible causal role of guns in violent acts that correlations involving suicide, homicide, and assault have turned out to be much stronger for gun-related incidents than for overall rates. But the absence of significant correlations between gun ownership and total homicide, assault, or suicide rates — even if partially explained by the relatively low proportion of victims of shootings — does certainly not plead against displacement effects. In sum, this research does not bring definitive answers to this question. Policy makers might be ill-advised to assume complete substitution of guns by other means if the former should become unavailable, particularly since other studies have shown, rather convincingly (Clarke and Mayhew 1989, Clarke and Lester 1989, Leenaars and Lester 1996, Clarke and Jones 1989), that suicidal candidates do not always by far turn to other means if the favored ones become suddenly unavailable.

CONCLUSIONS

The data presented here show that gun ownership is strongly correlated with suicide committed with a gun. Further, the role of guns is almost as strong in connection with homicide of women (including female partners). This

underlines the need to analyze the impact of guns not only globally, but more in connection with particular circumstances of homicide. On the other hand, the role of privately owned guns in connection with male victims of homicide is more complex and probably much less important. The same is true for assault when compared to robbery. Thus, reducing gun availability in the homes may affect mostly female homicide rates (Block and Christakos 1995).

Correlation does not necessarily imply causality. In this line, one might argue that high homicide or violent crime rates will motivate people to buy guns for self-protection (Skogan 1993). In connection with homicide of men and robbery, the correlations are either weak, or produced by the extreme scores of the USA alone. Low or unexistent correlations do not call for causal interpretations, however. In relation to homicide of women, assault, and suicide, a causal role of guns kept at home is more plausible than competing explanations. One could not think of any possible third variable which, simultaneously, might push people to buy guns to kill female partners (but not male opponents) and to commit assault or suicide, but which would dissuade from committing robbery.

It is not clear whether guns can be substituted by other means to commit suicide, to kill female partners, or in violent crime, since the results do not allow to confirm or rule out such a possibility. Finally, guns in general (including long guns) may be as dangerous as handguns in connection with domestic (self) destructive acts.

NOTES & QUESTIONS

1. *Suicide*. Killias et al. state at the beginning of their analysis that they cannot think of any variables that would affect both the rates of gun ownership and suicide. Can you? Japan, discussed *infra* in Section C.2, is an example of a nation with a very high suicide rate, and a very low rate of gun ownership. What are the best arguments for and against Killias et al.'s finding on suicide? For more data on guns and suicide, see Chapter 12.
2. *Femicide*. Chapter 8.B of the printed textbook presents U.S. data on firearms and domestic homicide. The data clearly indicate that a gun in the hands of an abuser who is living with the victim greatly increases the risk that a domestic abuse victim will be murdered. At the same time, a gun in the hands of an abuse victim who lives apart from the abuser does not increase risks to a statistically significant degree (Chapter 10.B). Are the U.S. findings consistent with Killias et al.'s findings?
3. How much should suicides, justified homicides, and criminal-on-criminal homicides be considered in making firearm policy?
4. What do you think of Killias et al.'s findings that gun density has no statistically significant effect on armed robbery rates, or on homicides among males? See Table 2 in their article for the statistical measures underlying each of these findings.

What about their statement that gun ownership is correlated with a *lower* suicide rate among females? See Table 2 and the following text in their article. Are you satisfied with their statement that a result is “not significant”?

5. Is it appropriate to draw policy conclusions from statistical correlations that fail to satisfy the formal measure of statistical significance? The usual measure of significance is $p < .05$; that is, to be “significant” it must be at least 95 percent likely that a given correlation is not due to mere chance. Is this standard too demanding for some complex questions about causation in social science?

Many plausible-seeming correlations in gun policy have some support, but do not satisfy $p < .05$. Which of the correlations from the Killias et al. article would fall into this category? Should they be given any weight by decision makers?

6. The Killias et al. article, like the Kates and Mauser article *infra*, concentrates on Europe and North America, in assessing the effect of firearms density. The geographical boundaries of these studies raise the question whether the effect of firearms density would be the same in other places, such as Latin America. The Altheimer and Boswell article (which follows Kates and Mauser) attempts to answer this question.
7. Evaluate the following statements in the Killias et al. article:
 - a. “If rates of homicide actually committed with handguns (rather than guns in general) are correlated with handgun ownership, the correlations change only minimally (Table 3). Thus, it seems that the kind of guns has almost no impact on rates of gun-related homicide.”
 - b. “[T]he picture [for assault] resembles what has been shown for homicide, i.e., substantial correlations between gun ownership and gun-related assaults/threats (at least once outliers are removed), and non significant, but not negligible positive correlations with overall homicide and assault rates, respectively.”
 - c. “Obviously, the substantial correlation between robbery and handgun ownership rates ($r = .67$, $p < .05$) is due only to the extreme position of the USA, whereas the rank-order correlation ($\rho = .17$) is far from being significant (Table 3). If the USA and Italy are removed from the analysis, the correlation drops to zero ($r = -.03$, Table 3). For total rates of robbery, the correlation is negligible ($r = .12$, $\rho = .10$, ns), even if the USA are left in the analysis (due to “opposite” extreme positions of Estonia and Spain). If these two outliers are excluded, along with the USA, the correlation remains zero ($r = .02$). Therefore, there is no correlation whatsoever between robbery and handgun ownership across the 18 remaining countries (Table 3).”
 - d. “The data presented here show that gun ownership is strongly correlated with suicide committed with a gun. Further, the role of guns is almost as strong in connection with homicide of women (including female partners).”

Don B. Kates & Gary Mauser, Would Banning Firearms Reduce Murder and Suicide? A Review of International and Some Domestic Evidence

30 *Harv. J.L. & Pub. Pol'y* 649 (2007)

INTRODUCTION

International evidence and comparisons have long been offered as proof of the mantra that more guns mean more deaths and that fewer guns, therefore, mean fewer deaths. Unfortunately, such discussions are all too often afflicted by misconceptions and factual error and focus on comparisons that are unrepresentative. It may be useful to begin with a few examples. There is a compound assertion that (a) guns are uniquely available in the United States compared with other modern developed nations, which is why (b) the United States has by far the highest murder rate. Though these assertions have been endlessly repeated, statement (b) is, in fact, false and statement (a) is substantially so.

Since at least 1965, the false assertion that the United States has the industrialized world's highest murder rate has been an artifact of politically motivated Soviet minimization designed to hide the true homicide rates. Since well before that date, the Soviet Union possessed extremely stringent gun controls that were effectuated by a police state apparatus providing stringent enforcement. So successful was that regime that few Russian civilians now have firearms and very few murders involve them. Yet, manifest success in keeping its people disarmed did not prevent the Soviet Union from having far and away the highest murder rate in the developed world. In the 1960s and early 1970s, the gunless Soviet Union's murder rates paralleled or generally exceeded those of gun-ridden America. While American rates stabilized and then steeply declined, however, Russian murder increased so drastically that by the early 1990s the Russian rate was three times higher than that of the United States. Between 1998-2004 (the latest figure available for Russia), Russian murder rates were nearly four times higher than American rates. Similar murder rates also characterize the Ukraine, Estonia, Latvia, Lithuania, and various other now-independent European nations of the former U.S.S.R. Thus, in the United States and the former Soviet Union transitioning into current-day Russia, "homicide results suggest that where guns are scarce other weapons are substituted in killings."⁸ While American gun ownership is quite high, Table 1 shows many other developed nations (e.g., Norway, Finland, Germany, France, Denmark) with high rates of gun ownership. These countries, however, have murder rates as low or lower than many developed nations in which gun ownership is much rarer.

8. Gary Kleck, *Targeting Guns: Firearms and Their Control* 20 (1997).

Table 1: European Gun Ownership and Murder Rates
(rates given are per 100,000 people and in descending order)

| <i>Nation</i> | <i>Murder Rate</i> | <i>Rate of Gun Ownership</i> |
|---------------|--------------------------|------------------------------|
| Russia | 20.54 [2002] | 4,000 |
| Hungary | 2.22 [2003] | 2,000 |
| Finland | 1.98 [2004] | 39,000 |
| Sweden | 1.87 [2001] | 24,000 |
| Poland | 1.79 [2003] | 1,500 |
| France | 1.65 [2003] | 30,000 |
| Denmark | 1.21 [2003] | 19,000 |
| Greece | 1.12 [2003] | 11,000 |
| Switzerland | 0.99 [2003] | 16,000 |
| Germany | 0.93 [2003] | 30,000 |
| Luxembourg | 0.90 ⁶ [2002] | c. 0 |
| Norway | 0.81 [2001] | 36,000 |
| Austria | 0.80 [2002] | 17,000 |

...

The same pattern appears when comparisons of violence to gun ownership are made within nations. Indeed, “data on firearms ownership by constabulary area in England,” like data from the United States, show “a *negative* correlation,”¹⁰ that is, “where firearms are most dense violent crime rates are lowest, and where guns are least dense violent crime rates are highest.”¹¹ Many different data sets from various kinds of sources are summarized as follows by the leading text:

[T]here is no consistent significant positive association between gun ownership levels and violence rates: across (1) time within the United States, (2) U.S. cities, (3) counties within Illinois, (4) country-sized areas like England, U.S. states, (5) regions of the United States, (6) nations, or (7) population subgroups. . . .¹²

A second misconception about the relationship between firearms and violence attributes Europe’s generally low homicide rates to stringent gun control. That attribution cannot be accurate since murder in Europe was at an all-time low *before* the gun controls were introduced. For instance, virtually the only English gun control during the nineteenth and early twentieth centuries was the practice that police patrolled without guns. During this period gun control prevailed far less in England or Europe than in certain American states which nevertheless had—and continue to have—murder rates that were and are comparatively very high.

6. [In the original article, the authors relied on a source that misstated the Luxembourg homicide rate as 9.01. They acknowledged the error as soon as it was brought to their attention, and their subsequent citations of the article mentioned the error. In this excerpt, we have inserted appropriate corrections. —Eds.]

10. Joyce Lee Malcolm, *Guns and Violence: The English Experience* 204 (2002).

11. Hans Toch & Alan J. Lizotte, *Research and Policy: The Case for Gun Control*, in *Psychology & Social Policy* 223, 232 (Peter Suedfeld & Philip E. Tetlock eds., 1992)

12. Kleck, *supra* note 8, at 22-23.

In this connection, two recent studies are pertinent. In 2004, the U.S. National Academy of Sciences released its evaluation from a review of 253 journal articles, 99 books, 43 government publications, and some original empirical research. It failed to identify any gun control that had reduced violent crime, suicide, or gun accidents. The same conclusion was reached in 2003 by the U.S. Centers for Disease Control's review of then extant studies.⁷

Stringent gun controls were not adopted in England and Western Europe until after World War I. Consistent with the outcomes of the recent American studies just mentioned, these strict controls did not stem the general trend of ever-growing violent crime throughout the post-WWII industrialized world including the United States and Russia. Professor Malcolm's study of English gun law and violent crime summarizes that nation's nineteenth and twentieth century experience as follows:

The peacefulness England used to enjoy was not the result of strict gun laws. When it had no firearms restrictions [nineteenth and early twentieth century] England had little violent crime, while the present extraordinarily stringent gun controls have not stopped the increase in violence or even the increase in armed violence.¹⁷

Armed crime, never a problem in England, has now become one. Handguns are banned but the Kingdom has millions of illegal firearms. Criminals have no trouble finding them and exhibit a new willingness to use them. In the decade after 1957, the use of guns in serious crime increased a hundredfold.¹⁸

In the late 1990s, England moved from stringent controls to a complete ban of all handguns and many types of long guns. Hundreds of thousands of guns were confiscated from those owners law-abiding enough to turn them in to authorities. Without suggesting this caused violence, the ban's ineffectiveness was such that by the year 2000 violent crime had so increased that England and Wales had Europe's highest violent crime rate, far surpassing even the United States. Today, English news media headline violence in terms redolent of the doleful, melodramatic language that for so long characterized American news reports. One aspect of England's recent experience deserves note, given how often and favorably advocates have compared English gun policy to its American counterpart over the past 35 years. A generally unstated issue in this notoriously emotional debate was the effect of the Warren Court and later restrictions on police powers on American gun policy. Critics of these decisions pointed to soaring American crime rates and argued simplistically that such decisions caused, or at least hampered, police in suppressing crime. But to some supporters of these judicial decisions, the example of England argued that the solution to crime was to restrict guns, not civil liberties. To gun control advocates, England, the cradle of our liberties, was a nation made so peaceful by strict gun control that its police did not even need to carry guns. The United States, it was argued, could attain such a desirable situation by radically reducing gun ownership, preferably by banning and confiscating handguns.

7. [The studies are discussed in online Chapter 12. — Eds.]

17. Malcolm, *supra* note 10, at 219.

18. *Id.* at 209.

The results discussed earlier contradict those expectations. On the one hand, despite constant and substantially increasing gun ownership, the United States saw progressive and dramatic reductions in criminal violence in the 1990s. On the other hand, the same time period in the United Kingdom saw a constant and dramatic increase in violent crime to which England’s response was ever-more drastic gun control including, eventually, banning and confiscating all handguns and many types of long guns. Nevertheless, criminal violence rampantly increased so that by 2000 England surpassed the United States to become one of the developed world’s most violence-ridden nations.

To conserve the resources of the inundated criminal justice system, English police no longer investigate burglary and “minor assaults.” As of 2006, if the police catch a mugger, robber, or burglar, or other “minor” criminal in the act, the policy is to release them with a warning rather than to arrest and prosecute them. It used to be that English police vehemently opposed the idea of armed policing. Today, ever more police are being armed. Justifying the assignment of armed squads to block roads and carry out random car searches, a police commander asserts: “It is a massive deterrent to gunmen if they think that there are going to be armed police.”²⁵ How far is that from the rationale on which 40 American states have enacted laws giving qualified, trained citizens the right to carry concealed guns? Indeed, news media editorials have appeared in England arguing that civilians should be allowed guns for defense. . . .

The divergence between the United States and the British Commonwealth became especially pronounced during the 1980s and 1990s. During these two decades, while Britain and the Commonwealth were making lawful firearm ownership increasingly difficult, more than 25 states in the United States passed laws allowing responsible citizens to carry concealed handguns. . . .

Although the reason is thus obscured, the undeniable result is that violent crime, and homicide in particular, has plummeted in the United States over the past 15 years. The fall in the American crime rate is even more impressive when compared with the rest of the world. In 18 of the 25 countries surveyed by the British Home Office, violent crime increased during the 1990s. . . . Perhaps the United States is doing something right in promoting firearms for law-abiding responsible adults. Or perhaps the United States’ success in lowering its violent crime rate relates to increasing its prison population or its death sentences. Further research is required to identify more precisely which elements of the United States’ approach are the most important, or whether all three elements acting in concert were necessary to reduce violent crimes.

I. VIOLENCE: THE DECISIVENESS OF SOCIAL FACTORS

One reason the extent of gun ownership in a society does not spur the murder rate is that murderers are not spread evenly throughout the population. Analysis of perpetrator studies shows that violent criminals—especially murderers—“*almost uniformly* have a long history of involvement in criminal

25. Matthew Beard, *Armed Police to Man Checkpoints in London as Drug-Related Crime Soars*, Independent (London), Sept. 7, 2002, at 2.

behavior.”³⁷ So it would not appreciably raise violence if all law-abiding, responsible people had firearms because they are not the ones who rape, rob, or murder. By the same token, violent crime would not fall if guns were totally banned to civilians. As the example of Russia suggests, individuals who commit violent crimes will either find guns despite severe controls or will find other weapons to use.

Startling as the foregoing may seem, it represents the cross-national norm, not some bizarre departure from it. If the mantra “more guns equal more death and fewer guns equal less death” were true, broad based cross-national comparisons should show that nations with higher gun ownership per capita consistently have more death. Nations with higher gun ownership rates, however, do not have higher murder or suicide rates than those with lower gun ownership. Indeed many high gun ownership nations have much lower murder rates. Consider, for example, the wide divergence in murder rates among Continental European nations with widely divergent gun ownership rates.

The non-correlation between gun ownership and murder is reinforced by examination of statistics from larger numbers of nations across the developed world. Comparison of “homicide and suicide mortality data for thirty-six nations (including the United States) for the period 1990-1995” to gun ownership levels showed “no significant (at the 5% level) association between gun ownership levels and the total homicide rate.”⁴¹ Consistent with this is a later European study of data from 21 nations in which “no significant correlations [of gun ownership levels] with total suicide or homicide rates were found.”⁴²

II. ASKING THE WRONG QUESTION

However unintentionally, the irrelevance of focusing on weaponry is highlighted by the most common theme in the more guns equal more death argument. Epitomizing this theme is a World Health Organization (WHO) report asserting, “The easy availability of firearms has been associated with higher *firearm* mortality rates.”⁴³ The authors, in noting that the presence of a gun in a home corresponds to a higher risk of suicide, apparently assume that if denied firearms, potential suicides will decide to live rather than turning to the numerous alternative suicide mechanisms. The evidence, however, indicates that denying one particular means to people who are motivated to commit suicide by social, economic, cultural, or other circumstances simply pushes them to some other means. Thus, it is not just the murder rate in gun-less Russia

37. See Delbert S. Elliott, *Life-Threatening Violence is Primarily a Crime Problem: A Focus on Prevention*, 69 *Colo. L. Rev.* 1081, 1089 (1998) (emphasis added).

41. Kleck, *supra* note 8, at 254. The study also found no correlation to suicide rates. *Id.*

42. Martin Killias et al., *Guns, Violent Crime, and Suicide in 21 Countries*, 43 *Can. J. Criminology & Crim. Just.* 429, 430 (2001) [*supra*, *preceding this excerpt*] . . . [T]he authors, who are deeply anti-gun, emphasize the “very strong correlations between the presence of guns in the home and suicide committed with a gun” — as if there were some import to the death being by gun rather than by hanging, poison, or some other means. . . .

43. World Health Organization, *Small Arms And Global Health* 11 (2001) (emphasis added).

that is four times higher than the American rate; the Russian suicide rate is also about four times higher than the American rate.

There is no social benefit in decreasing the availability of guns if the result is only to increase the use of other means of suicide and murder, resulting in more or less the same amount of death. Elementary as this point is, proponents of the more guns equal more death mantra seem oblivious to it. One study asserts that Americans are more likely to be shot to death than people in the world's other 35 wealthier nations. While this is literally true, it is irrelevant—except, perhaps to people terrified not of death per se but just death by gunshot. A fact that should be of greater concern—but which the study fails to mention—is that per capita murder *overall* is only half as frequent in the United States as in several other nations where *gun* murder is rarer, but murder by strangling, stabbing, or beating is much more frequent.

Of course, it may be speculated that murder rates around the world would be higher if guns were more available. But there is simply no evidence to support this. Like any speculation, it is not subject to conclusive disproof; but the European data in Table 1 and the studies across 36 and 21 nations already discussed show no correlation of high gun ownership nations and greater murder per capita or lower gun ownership nations and less murder per capita.

To reiterate, the determinants of murder and suicide are basic social, economic, and cultural factors, not the prevalence of some form of deadly mechanism. In this connection, recall that the American jurisdictions which have the highest violent crime rates are precisely those with the most stringent gun controls. This correlation does not necessarily prove gun advocates' assertion that gun controls actually encourage crime by depriving victims of the means of self-defense. The explanation of this correlation may be political rather than criminological: jurisdictions afflicted with violent crime tend to severely restrict gun ownership. This, however, does not suppress the crime, for banning guns cannot alleviate the socio-cultural and economic factors that are the real determinants of violence and crime rates.

Table 2: Murder Rates of European Nations that Ban Handguns as Compared to Their Neighbors that Allow Handguns (rates are per 100,000 persons)

| <i>Nation</i> | <i>Handgun Policy</i> | <i>Murder Rate</i> | <i>Year</i> |
|---------------------------------------------------------------------|-----------------------|--------------------|-------------------|
| A. Belarus | banned | 10.40 | late 1990s |
| [Neighboring countries with gun law and murder rate data available] | | | |
| Poland | allowed | 1.98 | 2003 |
| Russia | banned | 20.54 | 2002 |
| B. Luxembourg | banned | 0.90 | 2002 |
| [Neighboring countries with gun law and murder rate data available] | | | |
| Belgium | allowed | 1.70 | late 1990s |
| France | allowed | 1.65 | 2003 |
| Germany | allowed | 0.93 | 2003 |
| C. Russia | banned | 20.54 | 2002 |
| [Neighboring countries with gun law and murder rate data available] | | | |
| Finland | allowed | 1.98 | 2004 |
| Norway | allowed | 0.81 | 2001 |

...

Once again, we are not arguing that the data in Table 2 shows that gun control *causes* nations to have much higher murder rates than neighboring nations that permit handgun ownership. Rather, we assert a political causation for the observed correlation that nations with stringent gun controls tend to have much higher murder rates than nations that allow guns. The political causation is that nations that have violence problems tend to adopt severe gun controls, but these do not reduce violence, which is determined by basic socio-cultural and economic factors.

The point is exemplified by the conclusions of the premier study of English gun control. Done by a senior English police official as his thesis at the Cambridge University Institute of Criminology and later published as a book, it found (as of the early 1970s), “Half a century of strict controls . . . has ended, perversely, with a far greater use of [handguns] in crime than ever before.”⁵¹ The study also states that:

No matter how one approaches the figures, one is forced to the rather startling conclusion that the use of firearms in crime was very much less [in England before 1920] when there were no controls of any sort and when anyone, convicted criminal or lunatic, could buy any type of firearm without restriction.⁵²

Of course the point of this analysis is not that the law should allow lunatics and criminals to own guns. The point is that violence will be rare when the basic socio-cultural and economic determinants so dictate; and conversely, crime will rise in response to changes in those determinants — without much regard to the mere availability of some particular weaponry or the severity of laws against it.

IV. MORE GUNS, LESS CRIME?

Anti-gun activists are not alone in their belief that widespread firearm ownership substantially affects violent crime rates. The same understanding also characterizes many pro-gun activists. Of course, pro-gun activists’ belief leads them to the opposite conclusion: that widespread firearm ownership reduces violence by deterring criminals from confrontation crimes and making more attractive such nonconfrontation crimes as theft from unoccupied commercial or residential premises. Superficially, the evidence for this belief seems persuasive. Table 1, for instance, shows that Denmark has roughly half the gun ownership rate of Norway, but a 50% higher murder rate, while Russia has only one-ninth Norway’s gun ownership rate but a murder rate 2500% higher. Looking at Tables 1-3, it is easy to find nations in which very high gun ownership rates correlate with very low murder rates, while other nations with very low gun ownership rates have much higher murder rates. Moreover, there is not insubstantial evidence that *in the United States* widespread gun availability has helped

51. Colin Greenwood, *Firearms Control: A Study of Armed Crime and Firearms Control in England and Wales* 243 (1972).

52. *Id.*

reduce murder and other violent crime rates. On closer analysis, however, this evidence appears uniquely applicable to the United States.

More than 100 million handguns are owned in the United States primarily for self-defense, and 3.5 million people have permits to carry concealed handguns for protection. Recent analysis reveals “a great deal of self-defensive use of firearms” in the United States, “in fact, more defensive gun uses [by victims] than crimes committed with firearms.”⁸⁷ It is little wonder that the

National Institute of Justice surveys [Chapter 12.K.2.] among prison inmates find that large percentages report that their fear that a victim might be armed deterred them from confrontation crimes. “[T]he felons most frightened ‘about confronting an armed victim’ were those from states with the greatest relative number of privately owned firearms.” Conversely, robbery is highest in states that most restrict gun ownership.⁸⁸ . . .

Ironically, to detail the American evidence for widespread defensive gun ownership’s deterrent value is also to raise questions about how applicable that evidence would be even to the other nations that have widespread gun ownership but low violence. There are no data for foreign nations comparable to the American data just discussed. Without such data, we cannot know whether millions of Norwegians own handguns and carry them for protection, thereby deterring Norwegian criminals from committing violent crimes. Nor can we know whether guns are commonly kept for defense in German homes and stores, thus preventing German criminals from robbing them.

Moreover, if the deterrent effect of gun ownership accounts for low violence rates in high gun ownership nations other than the United States, one wonders why that deterrent effect would be amplified there. . . . [T]he United States murder rate is still eight times higher than Norway’s—even though the U.S. has an almost 300% higher rate of gun ownership. That is consistent with the points made above. Murder rates are determined by socio-economic and cultural factors.

In the United States, those factors include that the number of civilian-owned guns nearly equals the population—triple the ownership rate in even the highest European gun-ownership nations—and that vast numbers of guns are kept for personal defense. That is not a factor in other nations with comparatively high firearm ownership. . . .

In sum, though many nations with widespread gun ownership have much lower murder rates than nations that severely restrict gun ownership, it would be simplistic to assume that at all times and in all places widespread gun ownership depresses violence by deterring many criminals into nonconfrontation crime. There is evidence that it does so in the United States, where defensive gun ownership is a substantial socio-cultural phenomenon. But the more plausible explanation for many nations having widespread gun ownership with low violence is that these nations never had high murder and violence rates and so

87. [James B. Jacobs, *Can Gun Control Work?* 14 (2002).]

88. [Don Kates, *The Limited Importance of Gun Control from a Criminological Perspective*, in *Suing the Gun Industry: A Battle at the Crossroads of Gun Control and Mass Torts* 70 (Timothy D. Lytton ed., 2005).]

never had occasion to enact severe anti-gun laws. On the other hand, in nations that have experienced high and rising violent crime rates, the legislative reaction has generally been to enact increasingly severe antigun laws. This is futile, for reducing gun ownership by the law-abiding citizenry—the only ones who obey gun laws—does not reduce violence or murder. The result is that high crime nations that ban guns to reduce crime end up having both high crime and stringent gun laws, while it appears that low crime nations that do not significantly restrict guns continue to have low violence rates.

Thus both sides of the gun prohibition debate are likely wrong in viewing the availability of guns as a major factor in the incidence of murder in any particular society. . . . Whether gun availability is viewed as a cause or as a mere coincidence, the long term macrocosmic evidence is that gun ownership spread widely throughout societies consistently correlates with stable or declining murder rates. Whether causative or not, the consistent international pattern is that more guns equal *less* murder and other violent crime. . . .

V. GEOGRAPHIC, HISTORICAL AND DEMOGRAPHIC PATTERNS

If more guns equal more death and fewer guns equal less death, it should follow, all things being equal, (1) that geographic areas with higher gun ownership should have more murder than those with less gun ownership; (2) that demographic groups with higher gun ownership should be more prone to murder than those with less ownership; and (3) that historical eras in which gun ownership is widespread should have more murder than those in which guns were fewer or less widespread. As discussed earlier, these effects are not present. Historical eras, demographic groups, and geographic areas with more guns do not have more murders than those with fewer guns. Indeed, those with more guns often, or even generally, have fewer murders.

Of course, all other things may not be equal. Obviously, many factors other than guns may promote or reduce the number of murders in any given place or time or among particular groups. And it may be impossible even to identify these factors, much less to take account of them all. Thus any conclusions drawn from the kinds of evidence presented earlier in this paper must necessarily be tentative.

Acknowledging this does not, however, blunt the force of two crucial points. The first regards the burden of proof. Those who assert the mantra, and urge that public policy be based on it, bear the burden of proving that more guns do equal more death and fewer guns equal less death. But they cannot bear that burden because there simply is no large number of cases in which the widespread prevalence of guns among the general population has led to more murder. By the same token, but even more importantly, it cannot be shown consistently that a reduction in the number of guns available to the general population has led to fewer deaths. Nor is the burden borne by *speculating* that the reason such cases do not appear is that other factors always intervene.

The second issue, allied to the burden of proof, regards plausibility. On their face, the following facts from Tables 1 and 2 suggest that gun ownership is irrelevant, or has little relevance, to murder: France and neighboring Germany have exactly the same, comparatively high rate of gun ownership, yet the French

Table 3: Eastern Europe Gun Ownership and Murder Rates
(rates given are per 100,000 people and in descending order)

| <i>Nation</i> | <i>Murder Rate</i> | <i>Rate of Gun Ownership</i> |
|---------------|--------------------|------------------------------|
| Russia | 20.54 [2002] | 4,000 |
| Moldova | 8.13 [2000] | 1,000 |
| Slovakia | 2.65 [2000] | 3,000 |
| Romania | 2.50 [2000] | 300 |
| Macedonia | 2.31 [2000] | 16,000 |
| Hungary | 2.22 [2003] | 2,000 |
| Finland | 1.9 [2004] | 39,000 |
| Poland | 1.79 [2003] | 1,500 |
| Slovenia | 1.81 [2000] | 5,000 |
| Czech Repub. | 1.69 [2000] | 5,000 |
| Greece | 1.12 [2003] | 11,000 |

murder rate is nearly twice the German . . . ; Germany has almost double the gun ownership rate of neighboring Austria yet a similarly very low murder rate; the Norwegian gun ownership rate is over twice the Austrian rate, yet the murder rates are almost identical.

And then there is Table 3, which shows Slovenia, with 66% more gun ownership than Slovakia, nevertheless has roughly one-third less murder per capita; Hungary has more than 6 times the gun ownership rate of neighboring Romania but a lower murder rate; the Czech Republic’s gun ownership rate is more than 3 times that of neighboring Poland, but its murder rate is lower; Poland and neighboring Slovenia have exactly the same murder rate, though Slovenia has over triple the gun ownership per capita.

...

On their face, Tables 1, 2, and 3 and the comparisons gleaned from them suggest that gun ownership is irrelevant, or has little relevance, to murder. Historical and demographic comparisons offer further evidence. Again, all the data may be misleading. It is conceivable that more guns do equal more murder, but that this causation does not appear because some unidentifiable extraneous factor always intervenes. That is conceivable, but ultimately unlikely. As Hans Toch, a senior American criminologist who 35 years ago endorsed handgun prohibition and confiscation, but then recanted based on later research, argues “it is hard to explain that where firearms are most dense, violent crime rates are lowest and where guns are least dense, violent crime rates are highest.”⁹⁰ . . .

B. MACRO-HISTORICAL EVIDENCE: FROM THE MIDDLE AGES TO THE 20TH CENTURY

The Middle Ages were a time of notoriously brutal and endemic warfare. They also experienced rates of ordinary murder almost double the highest

90. Toch & Lizotte, *supra* note 11, at 232.

recorded U.S. murder rate. But Middle Age homicide “cannot be explained in terms of the availability of firearms, which had not yet been invented.”¹⁰¹ The invention provides some test of the mantra. If it is true that more guns equal more murder and fewer guns equal less death, murder should have risen with the invention, increased efficiency, and greater availability of firearms across the population.

Yet, using England as an example, murder rates seem to have fallen sharply as guns became progressively more efficient and widely owned during the five centuries after the invention of firearms. During much of this period, because the entire adult male population of England was deemed to constitute a militia, every military age male was required to possess arms for use in militia training and service.

The same requirement was true in America during the period of colonial and post-colonial settlement. Indeed, the basic English militia laws were superseded by the colonies’ even more specific and demanding legal requirements of *universal* gun ownership. Under those laws, virtually all colonists and every household were required to own guns. Depending on the colony’s laws, male youths were deemed of military age at 16, 17, or 18, and every military age man, except for the insane, infirm, and criminals, had to possess arms. They were subject to being called for inspection, militia drill, or service, all of which legally required them to bring and present their guns. To arm those too poor to afford guns, the laws required that guns be purchased for them and that they make installment payments to pay back the cost.

It bears emphasis that these gun ownership requirements were not limited to those subject to militia service. Women, seamen, clergy, and some public officials were automatically exempt from militia call up, as were men over the upper military age, which varied from 45 to 60, depending on the colony. But every household was required to have a gun, even if all its occupants were otherwise exempt from militia service, to deter criminals and other attackers. Likewise, all respectable men were theoretically required to carry arms when out and abroad.⁸

These laws may not have been fully enforced (except in times of danger) in areas that had been long-settled and peaceful. Nevertheless, “by the eighteenth century, colonial Americans were the most heavily armed people in the world.”¹⁰⁶ Yet, far from more guns equaling more death, murders in the New England colonies were “rare,” and “few” murderers in all the colonies involved guns “despite their wide availability.”¹⁰⁷

America remained very well armed yet homicide remained quite low for over two hundred years, from the earliest settlements through the entire colonial period and early years of the United States. Homicide in more settled areas only began rising markedly in the two decades before the Civil War. By that

101. [Roger Lane, *Murder in America: A History* 151 (1997).]

8. [The above two paragraphs are generally accurate, although not perfectly so. For the precise laws of Early America, see Chapter 3 of the textbook. — Eds.]

106. John Morgan Dederer, *War in America to 1775*, at 116 (1990)

107. Lane, *supra* note [101], at 48, 59-60.

time the universal militia was inoperative and the universality of American gun ownership had disappeared as many people in long-settled peaceful areas did not hunt and had no other need for a firearm.

The Civil War acquainted vast numbers of men with modern rapid-fire guns, and, in its aftermath, provided a unique opportunity to acquire them. Before the Civil War, reliable multi-shot rifles or shotguns did not exist and revolvers (though they had been invented in the 1830s) were so expensive they were effectively out of reach for most of the American populace. The Civil War changed all that. Officers on both sides had to buy their own revolvers, while sidearms were issued to noncommissioned officers generally, as well as those ordinary soldiers who were in the artillery, cavalry, and dragoons. The fact that over two million men served in the Union Army at various times while the Confederates had over half that number suggests the number of revolvers involved.

At war's end, the U.S. Army and Navy were left with vast numbers of surplus revolvers, both those they had purchased and those captured from Confederate forces. As the Army plummeted to slightly over 11,000 men, hundreds of thousands of military surplus revolvers were sold at very low prices. In addition, when their enlistments were up, or when they were mustered out at war's end, former officers and soldiers retained hundreds of thousands of both revolvers and rifles. These commandeered arms included many of the new repeating rifles the Union had bought (over the fervent objections of short-sighted military procurement officers) at the command of President Lincoln, who had tested the Spencer rifle himself. After his death the Army reverted to the single-shot rifle, disposing of all its multi-shots at surplus and thereby ruining Spencer by glutting the market.

Thus over the immediate post-Civil War years "the country was awash with military pistols" and rifles of the most modern design.¹¹⁵ The final three decades of the century saw the introduction and marketing of the "two dollar pistol," which were very cheap handguns manufactured largely out of pot metal. In addition to being sold locally, such "suicide specials" were marketed nationwide through Montgomery Ward catalogs starting in 1872 and by Sears from 1886. They were priced as low as \$1.69, and were marketed under names like the "Little Giant" and the "Tramp's Terror."

Thus, the period between 1866 and 1900 saw a vast diffusion of commercial and military surplus revolvers and lever action rifles throughout the American populace. Yet, far from rising, homicide seems to have fallen off sharply during these thirty years.

Whether or not guns were the cause, homicide steadily declined over a period of five centuries coincident with the invention of guns and their diffusion throughout the continent. In America, from the seventeenth century through the early nineteenth century, murder was rare and rarely involved guns, though

115. David T. Courtwright, *Violent Land: Single Men and Social Disorder from the Frontier to the Inner City* 42 (1996).

gun ownership was universal by law and “colonial Americans were the most heavily armed people in the world.”¹¹⁹ By the 1840s, gun ownership had declined but homicide began a spectacular rise through the early 1860s.⁹ From the end of the Civil War to the turn of the twentieth century, however, America in general, and urban areas in particular, such as New York, experienced a tremendous spurt in ownership of higher capacity revolvers and rifles than had ever existed before, but the number of murders sharply declined.

In sum, the notion that more guns equal more death is not borne out by the historical evidence available for the period between the Middle Ages and the twentieth century. Yet this conclusion must be viewed with caution. While one may describe broad general trends in murder rates and in the availability of firearms, it is not possible to do so with exactitude. Not until the late 1800s in England, and the mid-1900s in the United States were there detailed data on homicide. Information about the distribution of firearms is even more sparse. For instance, Lane’s generalizations about the rarity of gun murders and low American murder rates in general are subject to some dispute. Professor Randolph Roth, for example, has shown that early American murder rates and the extent to which guns were used in murder varied greatly between differing areas and time periods.

C. LATER AND MORE SPECIFIC MACRO-HISTORICAL EVIDENCE

Malcolm presents reliable trend data on both gun ownership and crime in England for the period between 1871 and 1964. Significantly, these trend data do not at all correlate as the mantra would predict: violent crime did not increase with increased gun ownership nor did it decline in periods in which gun ownership was lower.

In the United States, the murder rate doubled in the ten-year span between the mid-1960s and the mid-1970s. Since this rise coincided with vastly increasing gun sales, it was viewed by many as proof positive that more guns equal more death. That conclusion, however, does not follow. It is at least equally possible that the causation was reversed: that is, the decade’s spectacular increases in murder, burglary, and all kinds of violent crimes caused fearful people to buy guns. The dubiousness of assuming that the gun sales caused the rise in murder rather than the reverse might have been clearer had it been known in this period that virtually the same murder rate increase was occurring in gun-less Russia. Clearly there is little basis to assume guns were the reason for the American murder rate rise when the Russian murder rate exhibited the same increase without a similar increase in the number of guns.

Reliable information on both gun ownership and murder rates in the United States is available only for the period commencing at the end of World War II. Significantly, the decade from the mid-1960s to the mid-1970s

119. Dederer, *supra* note 106, at 116.

9. [For more on gun ownership in America, from colonial days through the antebellum period, see Clayton E. Cramer, *Armed America: The Remarkable Story of How and Why Guns Became as American as Apple Pie* (2007). Cramer differs from Kates and Mauser on some details. — Eds.]

is a unique exception to the general pattern that, decade-by-decade, the number of guns owned by civilians has risen steadily and dramatically but murder rates nevertheless have remained stable or even declined. As for the second half of the twentieth century, and especially its last quarter, a study comparing the number of guns to murder rates found that during the 25-year period from 1973 to 1997, the number of handguns owned by Americans increased 160% while the number of all firearms rose 103%. Yet over that period, the murder rate declined 27.7%. It continued to decline in the years 1998, 1999, and 2000, despite the addition in each year of two to three million handguns and approximately five million firearms of all kinds. By the end of 2000, the total American gunstock stood at well over 260 million — 951.1 guns for every 1,000 Americans — but the murder rate had returned to the comparatively low level prior to the increases of the mid-1960s to mid-1970s period.

In sum, the data for the decades since the end of World War II also fails to bear out the more guns equal more death mantra. The per capita accumulated stock of guns has increased, yet there has been no correspondingly consistent increase in either total violence or gun violence. The evidence is consistent with the hypothesis that gun possession levels have little impact on violence rates.

D. GEOGRAPHIC PATTERNS WITHIN NATIONS

Once again, if more guns equal more death and fewer guns equal less death, areas within nations with higher gun ownership should in general have more murders than those with less gun ownership in a similar area. But, in fact, the reverse pattern prevails in Canada, “England, America, and Switzerland, [where the areas] with the highest rates of gun ownership were in fact those with the lowest rates of violence.”¹²⁹ A recent study of all counties in the United States has again demonstrated the lack of relationship between the prevalence of firearms and homicide.¹³⁰

This inverse correlation is one of several that seems to contradict more guns equal more death. For decades the gun lobby has emphasized that, in general, the American jurisdictions where guns are most restricted have consistently had the highest violent crime rates, and those with the fewest restrictions have the lowest violent crime rates. For instance, robbery is highest in jurisdictions which are most restrictive of gun ownership. . . . Also of interest are the extensive opinion surveys of incarcerated felons, both juvenile and adult, in which large percentages of the felons replied that they often feared potential victims might be armed and aborted violent crimes because of that fear. The felons most frightened about confronting an armed victim were those “from states with the greatest relative number of privately owned firearms.”¹³⁵

129. Malcolm, *supra* note 10, at 204.

130. Tomislav Kovandzic, Mark E. Schaffer, & Gary Kleck, [Gun Prevalence, Homicide Rates and Causality: A GMM Approach to Endogeneity Bias 39-40](#) (Ctr. for Econ. Policy Research, Discussion Paper No. 5357, 2005).

135. [James D. Wright & Peter H. Rossi, *Armed and Considered Dangerous: A Survey of Felons and Their Firearms* 147, 150 (1986) (online Chapter 12.K.2).]

E. GEOGRAPHIC COMPARISONS: EUROPEAN GUN OWNERSHIP AND MURDER RATES

This topic has already been addressed at some length in connection with Tables 1-3, which contain the latest data available. Tables 4-6 contain further, and somewhat more comprehensive, data from the early and mid-1990s. These statistics reinforce the point that murder rates are determined by basic socio-cultural and economic factors rather than mere availability of some particular form of weaponry. Consider Norway and its neighbors Sweden, the Netherlands, and Denmark. Norway has far and away Western Europe's highest household gun ownership rate (32%), but also its lowest murder rate. The Netherlands has the lowest gun ownership rate in Western Europe (1.9%), and Sweden lies midway between (15.1%) the Netherlands and Norway. Yet the Dutch gun murder rate is higher than the Norwegian, and the Swedish rate is even higher, though only slightly.

Table 4: Intentional Deaths: United States vs. Continental Europe Rates

In order of highest combined rate; nations having higher rates than the United States are indicated by asterisk (suicide rate) or + sign (murder rate).

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

...

† The Swiss homicide figure that Stolinsky reports is an error because it combines attempts with actual murders. We have computed the Swiss murder rate by averaging the 1994 and 1995 Swiss National Police figures for actual murders in those years given in Richard Munday & Jan A. Stevenson, *Guns and Violence: The Debate Before Lord Cullen* 268 (1996).

Table 5: European Gun/Handgun Violent Death

| <i>Nation</i> | <i>Suicide with handgun (per 100,000 popul.)</i> | <i>Murder with handgun (per 100,000 popul.)</i> | <i>% of households with guns</i> | <i>% of households with handguns</i> |
|---------------|--------------------------------------------------|-------------------------------------------------|----------------------------------|--------------------------------------|
| Belgium | 18.7 | 1.7 | 16.6% | 6.8% |
| France | 20.8 | 1.1 | 22.6% | 5.5% |
| West Germany | 15.8 | 1.1 | 8.9% | 6.7% |
| Holland | 9.8 | 1.2 | 1.9% | 1.2% |
| Italy | 8.2 | 1.7 | 16.0% | 5.5% |
| Norway | 12.3 | 0.8 | 32.0% | 3.8% |
| Sweden | 15.3 | 1.3 | 15.1% | 1.5% |
| Switzerland | 20.8 | 1.1 | 27.2% | 12.2% |

Table 6: European Firearms-Violent Deaths
[All figures are per 100,000 population]

| <i>Nation</i> | <i>Suicide</i> | <i>Suicide with gun</i> | <i>Murder</i> | <i>Murder with gun</i> | <i>Number of Guns . . .</i> |
|---------------|----------------|-------------------------|---------------|------------------------|-----------------------------|
| Austria | N/A | N/A | 2.14 | 0.53 | 41.02 |
| Belarus | 27.26 | N/A | 9.86 | N/A | 16.5 |
| Czech Rep. | 9.88 | 1.01 | 2.80 | 0.92 | 27.58 |
| Estonia | 39.99 | 3.63 | 22.11 | 6.2 | 28.56 |
| Finland | 27.28 | 5.78 | 3.25 | 0.87 | 411.20 |
| Germany | 15.80 | 1.23 | 1.81 | 0.21 | 122.56 |
| Greece | 3.54 | 1.30 | 1.33 | 0.55 | 77.00 |
| Hungary | 33.34 | 0.88 | 4.07 | 0.47 | 15.54 |
| Moldova | N/A | N/A | 17.06 | 0.63 | 6.61 |
| Poland | 14.23 | 0.16 | 2.61 | 0.27 | 5.30 |
| Romania | N/A | N/A | 4.32 | 0.12 | 2.97 |
| Slovakia | 13.24 | 0.58 | 2.38 | 0.36 | 31.91 |
| Spain | 5.92 | N/A | 1.58 | 0.19 | 64.69 |
| Sweden | 15.65 | 1.95 | 1.35 | 0.31 | 246.65 |

...

These comparisons are reinforced by Table 6, which gives differently derived (and non-comparable) gun ownership rates, overall murder rates, and rates of gun murder, for a larger set of European nations. Table 6 reveals that even though Sweden has more than double the rate of gun ownership as neighboring Germany, as well as more gun murders, it has 25% less murder overall. In turn, Germany, with three times the gun ownership rate of neighboring Austria, has a substantially lower murder rate overall and a lower gun murder rate. Likewise, though Greece has over twice the per capita gun ownership rate of the Czech Republic, Greece has substantially less gun murder and less than half as much murder overall. Although Spain has over 12 times more gun ownership than Poland, the latter has almost a third more gun murder and more overall murder than the former. Finally, Finland has 14 times more gun ownership than neighboring Estonia, yet Estonia's gun murder and overall murder rates are about seven times higher than Finland's.

F. GEOGRAPHIC COMPARISONS: GUN OWNERSHIP AND SUICIDE RATES

The mantra more guns equal more death and fewer guns equal less death is also used to argue that “limiting access to firearms could prevent many suicides.”¹⁴¹ Once again, this assertion is directly contradicted by the studies of 36 and 21 nations (respectively) which find no statistical relationship. Overall suicide rates were no worse in nations with many firearms than in those where firearms were far less widespread.¹⁴²

Consider the data about European nations in Tables 5 and 6. Sweden, with over twice as much gun ownership as neighboring Germany and a third more gun suicide, nevertheless has the lower overall suicide rate. Greece has nearly three times more gun ownership than the Czech Republic and somewhat more gun suicide, yet the overall Czech suicide rate is over 175% higher than the Greek rate. Spain has over 12 times more gun ownership than Poland, yet the latter’s overall suicide rate is more than double the former’s. Tragically, Finland has over 14 times more gun ownership than neighboring Estonia, and a great deal more gun-related suicide. Estonia, however, turns out to have a much higher suicide rate than Finland overall.

There is simply no relationship evident between the extent of suicide and the extent of gun ownership. People do not commit suicide because they have guns available. In the absence of firearms, people who are inclined to commit suicide kill themselves some other way. Two examples seem as pertinent as they are poignant. The first concerns the 1980s increase in suicide among young American males, an increase that, although relatively modest, inspired perfervid denunciations of gun ownership. What these denunciations failed to mention was that suicide of teenagers and young adults was increasing throughout the entire industrialized world, regardless of gun availability, and often much more rapidly than in the United States. The only unusual aspect of suicide in the United States was that it involved guns. The irrelevancy of guns to the increase in American suicide is evident because suicide among English youth actually increased 10 times more sharply, with “car exhaust poisoning [being] the method of suicide used most often.”¹⁴⁵ By omitting such facts, the articles blaming guns for increasing American suicide evaded the inconvenience of having to explain exactly what social benefit nations with few guns received from having their youth suicides occur in other ways.

Even more poignant are the suicides of many young Indian women born and raised on the island of Fiji. In general, women are much less likely to commit suicide than are men. This statistic is true of Fijian women overall as well, but not of women in the large part of Fiji’s population that is of Indian ancestry. As children, these Indian women are raised in more-or-less loving and supportive homes. But upon marriage they are dispersed across the island to remote areas where they live with their husbands’ families, an often overtly hostile situation the husbands do little to mitigate. Indian women on Fiji have a suicide rate

141. Arthur L. Kellermann et al., *Suicide in the Home in Relation to Gun Ownership*, 327 *New Eng. J. Med.* 467, 467, 471-72 (1992). . . .

142. See Killias et al., *supra* note 42, at 430 (study of 21 nations) [*supra*, preceding this excerpt]; see generally Kleck, *supra* note 8.

145. Keith Hawton, *By Their Own Young Hand*, 304 *Brit. Med. J.* 1000 (1992). . . .

nearly as high as that of Indian men, a rate many times greater than that of non-Indian Fijian women. It also bears emphasis that the overall Fijian suicide rate far exceeds that of the United States.

The method of suicide is particularly significant. Fijian women of Indian ancestry commit suicide without using guns, perhaps because guns are unavailable. About three-quarters of these women hang themselves, while virtually all the rest die from consuming the agricultural pesticide paraquat. The recommendation of the author whose article chronicles all these suicides is so myopic as to almost caricature the more guns equal more death mindset: to reduce suicide by Indian women, she recommends that the Fijian state stringently control paraquat.¹⁴⁸ Apparently she believes decreased access to a means of death will reconcile these women to a life situation they regard as unendurable. At the risk of belaboring what should be all too obvious, restricting paraquat will not improve the lives of these poor women. It will only reorient them towards hanging, drowning, or some other means of suicide.

Guns are just one among numerous available deadly instruments. Thus, banning guns cannot reduce the amount of suicides. Such measures only reduce the number of suicides by firearms. Suicides committed in other ways increase to make up the difference. People do not commit suicide because they have guns available. They kill themselves for reasons they deem sufficient, and in the absence of firearms they just kill themselves in some other way.

CONCLUSION

This Article has reviewed a significant amount of evidence from a wide variety of international sources. Each individual portion of evidence is subject to cavil—at the very least the general objection that the persuasiveness of social scientific evidence cannot remotely approach the persuasiveness of conclusions in the physical sciences. Nevertheless, the burden of proof rests on the proponents of the more guns equal more death and fewer guns equal less death mantra, especially since they argue public policy ought to be based on that mantra. To bear that burden would at the very least require showing that a large number of nations with more guns have more death and that nations that have imposed stringent gun controls have achieved substantial reductions in criminal violence (or suicide). But those correlations are not observed when a large number of nations are compared across the world.

Over a decade ago, Professor Brandon Centerwall of the University of Washington undertook an extensive, statistically sophisticated study comparing areas in the United States and Canada to determine whether Canada's more restrictive policies had better contained criminal violence. When he published his results it was with the admonition:

If you are surprised by [our] finding[s], so [are we]. [We] did not begin this research with any intent to “exonerate” handguns, but there it is—a negative

148. Ruth H. Haynes, *Suicide in Fiji: A Preliminary Study*, 145 *Brit. J. Psychiatry* 433 (1984).

finding, to be sure, but a negative finding is nevertheless a positive contribution. It directs us where not to aim public health resources.¹⁵⁰

NOTES & QUESTIONS

1. Are you persuaded by Kates and Mauser's thesis that social and cultural factors are far more important than gun density in determining a nation's homicide rate?
2. What follows if Kates and Mauser are correct? What measures should citizens and governments pursue to reduce suicides and criminal homicides?
3. Rather than using formal statistical tests, Kates and Mauser produce a great deal of observational data, such as by comparing neighboring countries, or looking at changes over time in national homicide rates. Is this informal method useful for analyzing policy questions, or should any such analysis conform to formal statistical methods, including the use of significance tests? What are the advantages and disadvantages of the two approaches?
4. When should policy makers consider possible substitution effects? Killias et al. found that gun-related crimes and suicides were strongly correlated with gun ownership, but that crimes and suicides generally were relatively weakly correlated. Kates and Mauser report that circumstances push individuals to substitute other means for suicide and murder when firearms are not available. Based on these findings, what are arguments for and against more strict gun controls?
5. In the face of assessments suggesting that gun density does not drive homicide, might policy makers still rationally pass laws to reduce the gun supply on the logic that it can't hurt? What about the possibility that firearms have social benefits, as discussed in Chapter 12? Presumably the balance of costs and benefits from firearms will vary from country to country. What variables might affect the costs and benefits? The next study suggests that the variables might be cultural differences, as well as relationships not considered by the two studies above.

Irshad Altheimer & Matthew Boswell, Reassessing the Association between Gun Availability and Homicide at the Cross-National Level,
37 Am. J. Crim. Just. 682 (2012)

INTRODUCTION

The relationship between gun availability and homicide continues to be a source of debate among criminologists. Competing perspectives have emerged

150. Brandon S. Centerwall, *Author's Response to "Invited Commentary: Common Wisdom and Plain Truth,"* 134 *Am. J. Epidemiology* 1264, 1264 (1991).

that view guns as a cause of violent crime, a mechanism to reduce violent crime, and totally unrelated to violent crime. Macro-level research on this issue has yet to establish a consensus. For example, some studies have found a significant association between gun availability and homicide while others have not. As a result, the debate about the relationship between guns and violent crime at the macro-level continues. . . .

Recent research has documented the importance of considering socio-historical and cultural contexts when examining crime at the cross-national level. For example, research on Eastern European nations has found that age structure and economic inequality operate to influence homicide differently in Eastern European nations than in Western Developed nations. The authors of this research attributed these differences to the unique changes that have occurred in Eastern European nations in recent decades. Additionally, Ortega, Corzine, Burnett and Poyer found that the effects of modernity on homicide may vary by region, a proxy for culture. Further, Neopolitan found that cultural factors explained high rates of homicide in Latin American nations. There is also a body of research that suggests that the symbolism associated with guns in some cultures influences levels of homicide. Despite these findings, no research to date has examined if the manner that gun availability influences violence across nations is contingent upon socio-historical and cultural contexts.

These issues have important implications for international gun control policy. If gun availability levels positively influence homicide rates across nations, without regard to socio-historical or cultural factors, then measures to reduce the availability of guns within nations, as well as the transfer of weapons between nations, should lead to subsequent reductions in lethal violence. This would occur if the lower levels of gun availability decrease the likelihood that crime prone individuals use a gun during the commission of a crime. If, on the other hand, the effect of gun availability on homicide is found to be contingent upon socio-historical and cultural factors, the policy approaches will have to be more nuanced. For example, if gun availability is found to decrease rates of homicide in certain nations, then it would be prudent for policy makers to develop a policy that reduces gun availability among criminal aggressors, but still allows citizen[s] to utilize guns for self-defense.

The aim of this paper is to further clarify the nature of the relationship between gun availability and homicide at the cross-national level. Towards that end, this paper has two objectives. First, to examine the association between gun availability and homicide in a manner that better accounts for simultaneity than previous research. Second, to examine the manner that the relationship between gun availability and homicide is shaped by socio-historical and cultural context.

THEORY

No dominant theoretical perspective exists that explains the relationship between gun ownership and homicide. The basis for such a perspective, however, has been proposed by Kleck and McElrath, who suggest that weapons are a source of power used instrumentally to achieve goals by inducing compliance with the user's demands. The goals of a potential gun user are numerous

and could include money, sexual gratification, respect, attention, or domination. Importantly, this perspective suggests that guns can confer power to both a potential aggressor and a potential victim seeking to resist aggression. When viewed in this manner, several hypotheses can be derived concerning the relationship between gun availability and homicide at the macro-level. Importantly, applying these hypotheses to the macro-level leads to analyses that are more concerned with aggregate social factors and statistical associations than direct causality. Macro-level analysis of the relationship between gun availability and violence is often misconstrued as supporting the contention that guns “cause” crime. In reality, this research is primarily driven by questions about the role that gun availability plays in facilitating choices and other behavior that may influence levels of criminal violence.

The facilitation, triggering, and weapon instrumentality hypotheses have been put forth to explain why gun availability and homicide should be positively associated. The facilitation hypothesis suggests that gun availability is positively associated with homicide because the availability of guns provides encouragement to potential attackers or to persons who normally would not commit an attack. This encouragement is derived from the fact that the possession of a gun can enhance the power of a potential aggressor; thereby increasing the chances that a violent crime will be successfully completed. Guns can also facilitate crime by emboldening an aggressor who would normally avoid coming into close contact with a victim or using a knife or blunt object to stab or bludgeon someone to death. This is particularly important in situations when the aggressor is smaller or weaker than the victim. In such cases, the aggressor’s possession of a gun can neutralize the size and strength advantage of an opponent. The triggering hypothesis suggests that gun availability triggers aggression among potential offenders. This “weapons effect” is said to occur because angry people are likely to associate guns with aggressive behavior. Similarly, it has been suggested that the presence of a gun is likely to intensify negative emotions such as anger.

The weapon instrumentality hypothesis suggests that gun availability increases the lethality of violent crime. This occurs when increasing gun availability increases the likelihood that an aggressor substitutes a gun for another weapon or no weapon at all during the commission of a crime. The end result is often homicide. The basic premise of the weapon instrumentality perspective is that the use of a gun during the commission of an assault or robbery (1) increases the likelihood of death or serious injury; (2) provides aggressors with the opportunity to inflict injury at long distances; and (3) makes it easier to assault multiple victims than the use of other weapons that are commonly used to commit violent crime (i.e. knife or bat).

Another perspective on this issue suggests that the availability of guns is negatively associated with homicide. From this perspective, increased levels of gun availability empower the general public to disrupt or deter criminal aggression[, which] suggests that gun availability can disrupt criminal aggression in two ways. First, an armed victim can prevent the completion of a crime by neutralizing the power of an armed aggressor or by shifting the balance of power in favor of the victim when confronted by an unarmed aggressor. Second, an armed victim can use a weapon to resist offender aggression and avoid injury. Increased levels of gun availability may also reduce crime by deterring potential

aggressors. Aggressors may refrain from committing crime due to fear of violent retaliation from victims. This deterrence can be both specific and general. For instance, a criminal aggressor may refrain from committing future attacks because they were confronted with an armed victim during a previous experience. Alternatively, an aggressor may refrain from committing a criminal act if they believe that a large proportion of the pool of potential victims is armed. When applied to the macro-level, this perspective suggests that gun availability should be negatively associated with homicide. This is because in nations where citizens have greater access to guns, potential victims will be better able to deter or disrupt the acts of criminal aggressors.

The third perspective discussed here suggests that gun availability and homicide are unrelated. The absence of an effect can be the result of two things. First, gun availability simply may not influence homicide. From this perspective, the use of a gun simply may reflect an aggressor’s greater motivation to seriously harm a victim. This suggests that factors other than gun availability motivate gun use and that a lack of access to a gun will simply cause an aggressor to substitute another weapon to achieve a desired outcome. Second, an effect between gun availability and crime may not be detected because defensive gun use may offset the effects of guns being used for criminal aggression.

CROSS-NATIONAL RESEARCH ON GUNS AND HOMICIDE

Cross-national research examining the relationship between gun availability and homicide has been small in number. With the exception of Hoskin, these studies have employed bivariate correlation analyses to examine the relationship between gun availability and homicide. On the surface, several of these studies seem to provide support for the proposition that gun availability and homicide are positively associated; thereby supporting the contention that increasing gun availability increases the likelihood of homicide. For example, Killias found a positive correlation between gun availability—measured using an aggregated survey measure of gun ownership—and national homicide rates in 14 Western Developed nations.¹⁰ Additionally, Hemenway and Miller found a positive association between two indicators of gun availability—percentage of suicides committed with a gun and Cook’s gun availability index—and homicide in a sample of 26 high income nations. It is important to note that the results from these studies are suggestive but not conclusive. As a result, critics of these studies have either rejected the findings or provided alternative explanations.

Criticisms of this research can be placed in two categories. The first category involves criticism of the overreliance of correlation coefficients in the examination of this relationship. The overreliance of correlation coefficients precludes the establishment of causality. For example, Kleck notes that a significant association between gun availability and homicide can be interpreted to represent the effect of violent crime on gun availability. The overreliance on correlation coefficients also makes it impossible to control for other important predictors of

10. [Killias, along with others, conducted a later, broader study, which produced different results. The later study appears in this chapter, *supra*. —Eds.]

homicide at the cross-national level. Due to this some researchers have concluded that “Cross national research holds little promise for assessing the impact of gun levels on violence levels”. But the failure to establish causality and control for other variables does not mean that research performing bivariate analysis is worthless. Rather, this research serves an important exploratory step in examining the relationship between gun availability and homicide. The analyses performed in previous research may be viewed as one step in the career of a causal relationship. When viewed in this way, the finding of a significant association would suggest the need to explore the relationship with more rigorous statistical approaches in the future. Hoskin attempted to control for potential simultaneity between gun availability and homicide by using two-stage least squares regression to examine the gun/homicide relationship. His results suggest that gun availability levels influenced rates of homicide, but his failure to include proper instruments for gun availability [led] to serious questions about the veracity of his results.

The second category of criticism deals with the composition of the sample included in the analysis. There is evidence that the significant results detected are due to the inclusion of the United States in the analyses. For instance, Hemenway and Miller found that the association between gun availability and homicide dropped to insignificance when the United States was excluded from the analysis. Additionally, Hemenway found that firearm availability only influenced homicide rates when the United States was included in the analysis. Additionally, Kleck’s reanalysis of the Killias data found that the results dropped to insignificance when the United States was excluded.

Critics of this research also point out that it has primarily focused on Western Developed nations. Importantly, in the one situation when non-Western or lower income nations were included in the analysis the relationship between gun availability and gun homicide dropped from significance. In the same study, gun availability was found to have no association with homicide when all nations were included. Hepburn and Hemenway argued that inconsistent results emerge when high income and non-high income nations are included in the same analysis because differences in socioeconomic status may affect levels of lethal violence in these nations. Although this assertion seems plausible, an alternative proposition is that gun availability and homicide only exhibit a significant association in certain cultural and socio-historical settings.

EXPANDING EXISTING THEORY AND LITERATURE TO ACCOUNT FOR SOCIO-HISTORICAL AND CULTURAL FACTORS

Macro-level criminological research can be divided into three categories. The first involves social-structural approaches to the study of homicide. This research views homicide rates as social facts that are distributed in patterned ways. Patterns of homicide are influenced by the social structure, which describes the positions or statuses that people occupy and the behavioral expectations attached to these statuses. From a social-structural perspective, gun availability can be viewed as a material social fact that operates somewhat independent of socio-historical and cultural factors to influence gun homicide

and homicide rates. A positive association between gun availability and homicide would be hypothesized to exist cross-nationally, in spite of socio-historical and cultural differences between nations.

The second approach involves research that examines how cultural processes influence rates of homicide. Proponents of this perspective argue that variation in homicide rates can be explained by values, norms, and beliefs held by members of a society. Although there are numerous cultural theories that attempt to explain crime, virtually all of these approaches to crime suggest that, at least in certain situations, some societies — or subgroups within society — are more accepting than others of the use of the violence in upholding certain values. In essence, it is culture that establishes how people within society interpret and respond to certain events and provocations. Thus, cultural processes may influence knowledge of weapons—including how to identify and use them—as well as situational definitions of when it is appropriate to use a weapon to injure or kill someone.

The third approach involves consideration of how socio-historical factors influence homicide. Socio-historical research is primarily concerned with how space and time shape structures of order and disorder across nations, and the implications that this has for cross-national variation in violence. Both political boundaries and geographic characteristics shape the social organization of societies. Consideration of time is important because social forces are temporally linked; and the occurrence and sequence of important historical events within specific political and geographic boundaries may influence the levels of violence within societies. From the socio-historical perspective, the manner that gun availability is associated with crime is influenced by the history and geography of a nation, as well as the occurrence of important temporal events. In nations where the gun historically has been viewed as a civilizing force against indigenous populations (i.e. cowboys and Native Americans); or in nations with vast and diverse geographic boundaries that make the development of gun sports possible; or in nations where the occurrence of certain temporal events lead[s] to the breakdown of collective security; citizens may come to view [] the use of guns as a viable option when responding to interpersonal disputes.

Although most cross-national research has been social-structural in nature, there is evidence in the criminological literature that both cultural and socio-historical processes influence cross-national variation in homicide. Results of this research suggest that important structural predictors of crime do not necessarily operate uniformly across nations. This notion is further supported by historical and ethnographic firearm research that documents the greater glorification and toleration of gun use and gun violence in some societies than in others. Taken together, this research suggests that an examination of the manner that socio-historical and cultural processes shape the nature [of the] gun/homicide relationship is warranted.

THE CURRENT STUDY

The current study has two objectives. First, to examine the association between gun availability and homicide in a manner that better accounts for simultaneity than previous research. Second, to examine the manner that the

relationship between gun availability and homicide is shaped by socio-historical and cultural context. To address these objectives, the analysis proceeds in the following manner. First, the relationship between gun availability, gun homicide, and homicide is examined for the entire sample of nations. Examining the effect of gun availability on gun homicide is necessary to determine if the greater availability of guns increases the likelihood that societal members will make a gun their weapon of choice when committing a violent assault. Importantly, a significant relationship between these two variables doesn't suggest weapon instrumentality. It is possible that citizens in these nations choose guns as their weapon of choice when they intend to seriously harm or kill their victim. A significant relationship between gun availability and homicide, however, would suggest greater weapon lethality.

The second objective will be met by examining the association between gun availability, gun homicide, and homicide across three groups of nations that are culturally and socio-historically distinct: Western nations, Latin American nations, and Eastern European nations. Examining Latin American nations is important because previous research has argued that these nations are characterized by a machismo culture that increases the use of weapons and the likelihood of violence. Examining Eastern European nations is important because previous research has found that the transition to market capitalism has led to the breakdown of collective security in many of these nations. Under these circumstances it is plausible that gun violence has become more likely in these nations.

Although it is recognized that the nations in each respective category are not entirely homogenous, it is assumed that nations are more similar to neighboring nations than nations in different cultural regions. Placing nations in categories, rather than looking at the effects of each nation separately, is necessary because data on the socio-historical and cultural processes of interest here are not available for a cross-national sample. This approach has been taken in previous cross-national research attempting to assess the effects of socio-historical and cultural processes on crime.

DATA AND METHODS

This study provides a methodological improvement to existing cross-national work on guns and homicide. Specifically, we are able to model the effects of gun prevalence on homicide with special attention being paid to variation over both time and space.

DATA

To test these arguments we collected annual national-level data for the years 2000 to 2005 on gun homicide, characteristics of nations, and meaningful controls. The use of yearly data is a methodological improvement to cross-sectional studies of guns and homicide for several reasons. First, by using time-varying data effects can be estimated more efficiently. Second, variation from year-to-year can be captured. Finally, the time-series design allows for

claims of causality, which are stronger than analyses which cannot account for temporal ordering.

This full sample used in this study contains data on 43 nations measured over 6 years. An investigation of the data showed no systematic patterns to missing data. Regional subsamples varied in the number of nations. Table 5 in the Appendix shows the composition of both the baseline set of nations as well as the specific regional groupings. Our choices of nations to include were determined by data availability. We note that the total number of nations included in the analysis is similar in size to other work in cross-national criminology.

VARIABLES

INDEPENDENT VARIABLE

Gun availability was measured by the rate of gun suicides in each nation per 100,000 inhabitants for the years 2000 to 2005. These data were collected from the WHO ICD-10 raw data files. Suicide data were aggregated for each nation for the years 2000 through 2005. Each year of the suicide rate was operationalized by taking the number [of] gun suicides for that particular year, dividing it by the national population for the same period of time, and multiplying that number by 100,000. The gun suicide rate is considered the proxy of choice for examining gun availability levels across macro-level units. Confidence in the validity of this measure is further bolstered by the fact that it is highly correlated with Krug et al.'s cross-national indicator of the gun suicide rate. For the 21 nations that are included in both our dataset and Krug et al.'s dataset, the Pearson correlation is .93 and the Spearman's rho is .96.

DEPENDENT VARIABLES

Data for gun homicide were collected from the WHO ICD-10 raw data files. The gun homicide measure represents the proportion of homicides in each respective nation that involved the use of a firearm. It was operationalized as the number of gun homicides per 100,000 inhabitants for the years 2000 to 2005. Due to data limitations, no distinction could be made between hand guns and long guns. The homicide measure was operationalized as the rate of homicides per 100,000 population for the years 2000 to 2005, [respectively].

CONTROL VARIABLES

The control variables included in the analyses of this study were selected to isolate the effects of gun availability on homicide and gun homicide. The following control variables were included in these analyses: economic inequality, GDP/capita, male population between the ages of 15 to 34 (young males), social support, urbanization, sex ratio. For all of the control variables, data were taken for the years 2000-2005. Data for GDP/capita, social support, and urbanization

were taken from the World Development Indicators website. Economic inequality was operationalized using the Gini index. There are numerous sources for this variable. Because of the yearly observations used in this analysis, we chose the net Gini indicator¹¹ from the Standardized World Income Inequality Database (SWIID). This dataset standardizes the United Nations World Income Inequality Database while drawing from other sources and also providing yearly data. The net Gini indicator is a measure of inequality after all transfer payments are taken into consideration.

Controlling for this indicator is important because previous research has found economic inequality to be one of the most robust predictors of crime across nations. Gross Domestic Product was included as an indicator of the level of development within a nation. Previous research has found that Developed nations have lower levels of violence than developing and underdeveloped nations. Development was operationalized as GDP per capita[] in 1000s of U.S. dollars. This figure was then log transformed to correct for skewness. Social support was operationalized as the percentage of the nation's GDP spent on healthcare.

Urbanization was operationalized as the proportion of national citizens who live in urban areas. This indicator measures the population density within a nation. . . . Young males is an indicator of the proportion of male citizens between the ages of 15 to 34. Previous research has found that nations with larger young populations have higher rates of homicide. Sex ratio was operationalized as the ratio of men per 100 women in society. Sex ratio has been found to be an important predictor of violence both within and between nations (Pratt & Cullen, 2005). Table 6 in the Appendix presents descriptive statistics for the nations in the sample. Correlations are based on the pooled sample.¹² Means and standard deviations for all variables are presented. . . .

RESULTS

Results for this study are reported in Tables 1 through 4. Table 1 reports the analysis of the effects of gun availability on gun homicide and homicide for all of the nations sampled. Model 1 in Table 1 presents a baseline model that examines the effects of the statistical controls on gun homicide. The model reveals that economic inequality, proportion young males, and urbanization all influence rates of gun homicide. Interestingly, the effects of economic inequality, proportion young males and urbanization are opposite of what might be expected. Model 2 shows the effects when lagged levels of gun availability are introduced in the model. Gun availability significantly influences levels of gun homicide. For every unit increase in gun availability, gun homicide decreases .145 units. Model 3 reports the baseline model that examines the effects of the statistical controls on homicide. The results reveal that economic inequality, proportion young males, sex ratio, urbanization, and social support significantly influence rates of homicide. As in the previous models, and contrary to what has

11. [A measure of the distribution of income within a nation. A higher number corresponds to higher income inequality. — Eds.]

12. [A pooled sample is the combination, or pooling, of two or more smaller samples. — Eds.]

TABLE 1 Baseline models

| | <i>Gun Homicide</i> | | <i>Homicide</i> | |
|-------------------------------------|---------------------|----------------------|---------------------|---------------------|
| | <i>Model 1</i> | <i>Model 2</i> | <i>Model 3</i> | <i>Model 4</i> |
| Log GDP | -0.010 (0.025) | -0.010 (0.025) | -0.010 (0.009) | -0.011 (0.009) |
| Inequality | -0.059** (0.014) | -0.053** (0.014) | -0.025** (0.005) | -0.023** (0.005) |
| Young Males | -9.626** (2.804) | -10.986** (2.791) | -4.352** (0.982) | -4.710** (1.063) |
| Sex Ratio | 0.060* (0.028) | 0.062** (0.022) | 0.047* (0.020) | 0.047* (0.022) |
| Urbanization | -0.007** (0.002) | -0.005 (0.003) | -0.008** (0.003) | -0.008** (0.003) |
| Social Support | -0.014 (0.019) | -0.042 (0.024) | -0.087** (0.011) | -0.086** (0.012) |
| Year | -0.028** (0.007) | -0.030** (0.007) | -0.021** (0.003) | -0.021** (0.004) |
| Log Gun Homicide _{t-1} | 0.033 (0.064) | 0.040 (0.069) | | |
| Log Gun Availability _{t-1} | -0.145** (0.028) | | 0.016 (0.037) | |
| Log Homicide _{t-1} | | -0.114 (0.060) | -0.055 (0.071) | |
| Observations | 188 | 188 | 195 | 191 |

* p < .05, **p < .01

been found in previous research, economic inequality, young males, and urbanization exhibit effects opposite of what was expected. Gun availability is introduced in Model 4 and is found to have no effect on homicide.

Table 2 reports the effects of gun availability on gun homicide and homicide in Western nations only. The baseline model reports that economic inequality, sex ratio, and urbanization significantly influence gun homicide levels. Importantly, the effect of economic inequality is in the expected direction. In Model 2 lagged gun availability is introduced. The results suggest that higher levels of gun availability increase levels of gun homicide in Western developed nations. Model 3 examines the effects of the statistical controls on homicide. The model reveals that GDP/capita, economic inequality, and urbanization influence homicide. As reported in Table 1, the effect of economic inequality is opposite of what is expected. Lagged gun availability is introduced into Model 4. The results reveal that gun availability significantly influences rates of homicide in this sample of nations. Increases in gun availability are associated with subsequent decreases in homicide.

Table 3 reports the effects of gun availability on gun homicide and homicide for Eastern European nations. The baseline model of the effects of the statistical controls on gun homicide reveals that economic inequality, proportion young males, urbanization, and social support influence gun homicide levels. Importantly, all of these variables influence gun homicide in a manner opposite of what might be expected. Lagged gun availability is introduced in Model 2. Gun availability has a negative effect on gun homicide. This suggests

TABLE 2 Western nations

| | <i>Gun Homicide</i> | | <i>Homicide</i> | |
|-------------------------------------|---------------------|---------------------|----------------------|---------------------|
| | <i>Model 1</i> | <i>Model 2</i> | <i>Model 3</i> | <i>Model 4</i> |
| Log GDP | 0.002 (0.033) | 0.001 (0.030) | -0.010** (0.005) | -0.007 (0.007) |
| Inequality | 0.232*** (0.070) | 0.241*** (0.069) | -0.085** (0.033) | -0.090** (0.039) |
| Young Males | 4.566 (7.604) | 8.964 (7.120) | -0.329 (3.724) | -1.221 (4.367) |
| Sex Ratio | 0.357** (0.149) | 0.258* (0.148) | -0.040 (0.057) | 0.064 (0.079) |
| Urbanization | -0.038* (0.023) | -0.038 (0.027) | 0.029*** (0.010) | 0.029** (0.013) |
| Social Support | -0.070 (0.069) | -0.072 (0.073) | -0.025 (0.023) | -0.034 (0.030) |
| Year | -0.009 (0.026) | 0.022 (0.032) | -0.025* (0.014) | -0.040** (0.018) |
| Log Gun Homicide _{t-1} | -0.036 (0.116) | -0.023 (0.115) | | |
| Log Gun Availability _{t-1} | 0.906*** (0.270) | | -0.225* (0.116) | |
| Log Homicide _{t-1} | | | -0.294*** (0.077) | -0.260** (0.107) |
| Observations | 59 | 59 | 65 | 61 |

*p < .05, **p < .01, ***p < .01

that, in Eastern European nations, increased levels of gun availability reduce rates of gun violence. Model 3 examines the effects of the statistical controls on homicide. GDP/capita, economic inequality, urbanization, and social support all significantly influence rates of homicide. Gun availability is introduced in Model 4. The results reveal that gun availability negatively influences rates of homicide in Eastern European nations ($p < .10$). Additionally, gun availability seems to mediate the effect of economic inequality on homicide.

Table 4 reports the effects of gun availability on gun homicide and homicide for Latin American nations. Model 1 reports the baseline model that regresses gun homicide on the important statistical controls. The findings reveal that GDP/capita, young males, sex ratio, and social support influence gun homicide levels. Lagged levels of gun availability were added in Model 2. Gun availability exhibits a significant positive effect on gun homicide. Additionally, when gun availability is added to the model economic inequality emerges as significant, thereby suggesting a suppression effect. Model 3 examines the effects of the statistical controls on homicide. Only social support is found to significantly influence homicide in these models. Gun availability is added in Model [4] and is found to significantly influence rates of homicide. This suggests that higher levels of gun availability lead to higher rates of homicide in Latin American nations. Interestingly, urbanization exhibits a significant negative effect once gun availability is introduced in the model. This suggests a suppression effect. The implications of these findings are discussed below.

TABLE 3 Eastern European nations

| | <i>Gun Homicide</i> | | <i>Homicide</i> | |
|-------------------------------------|-----------------------|-----------------------|----------------------|----------------------|
| | <i>Model 1</i> | <i>Model 2</i> | <i>Model 3</i> | <i>Model 4</i> |
| Log GDP | -0.103 (0.201) | -0.341 (0.256) | -0.357*** (0.062) | -0.338*** (0.062) |
| Inequality | -0.068** (0.032) | -0.091*** (0.032) | -0.862 (1.266) | 0.007 (0.006) |
| Young Males | -29.045*** (6.039) | -24.790*** (6.027) | -0.329 (3.724) | -1.164 (1.224) |
| Sex Ratio | -0.224 (0.222) | -0.269 (0.209) | 0.015 (0.025) | -0.026 (0.031) |
| Urbanization | -0.018* (0.010) | -0.016 (0.012) | -0.024*** (0.003) | -0.030*** (0.004) |
| Social Support | 0.157** (0.076) | 0.113 (0.079) | -0.099*** (0.018) | -0.094*** (0.016) |
| Year | -0.043 (0.027) | -0.015 (0.031) | 0.002 (0.001) | 0.004** (0.002) |
| Log Gun Homicide _{t-1} | -0.056 (0.132) | 0.016 (0.130) | | |
| Log Gun Availability _{t-1} | | -0.527*** (0.178) | | -0.048** (0.022) |
| Log Homicide _{t-1} | | | 0.201** (0.096) | 0.162* (0.094) |
| Observations | 60 | 60 | 60 | 60 |

*p < .05, **p < .01, ***p < .01

TABLE 4 Latin American nations

| | <i>Gun Homicide</i> | | <i>Homicide</i> | |
|-------------------------------------|----------------------|----------------------|----------------------|----------------------|
| | <i>Model 1</i> | <i>Model 2</i> | <i>Model 3</i> | <i>Model 4</i> |
| Log GDP | -0.032** (0.013) | -0.035*** (0.014) | -0.004 (0.051) | -0.027 (0.060) |
| Inequality | -0.010 (0.008) | -0.016* (0.009) | 0.032 (0.021) | 0.023 (0.023) |
| Young Males | -8.213** (3.754) | -7.308* (3.785) | -7.203 (5.424) | -8.509 (6.479) |
| Sex Ratio | 0.076** (0.036) | 0.075** (0.036) | 0.079 (0.053) | 0.101 (0.063) |
| Urbanization | -0.001 (0.001) | -0.001 (0.001) | -0.001 (0.003) | -0.006* (0.004) |
| Social Support | -0.077*** (0.017) | -0.075*** (0.019) | -0.085*** (0.021) | -0.103*** (0.027) |
| Year | 0.014** (0.006) | 0.016*** (0.006) | 0.014 (0.012) | 0.018 (0.013) |
| Log Gun Homicide _{t-1} | 0.069 (0.125) | 0.016 (0.127) | | |
| Log Gun Availability _{t-1} | | 0.046* (0.026) | | 0.237*** (0.071) |
| Log Homicide _{t-1} | | | 0.093 (0.135) | -0.085 (0.144) |
| Observations | 53 | 53 | 53 | 53 |

*p < .05, **p < .01, ***p < .01

DISCUSSION . . .

Several of the results warrant discussion here. The first concerns the dynamic between gun availability, gun homicide, and homicide. As discussed above, gun availability exhibited a positive effect on gun homicide in Western Developed nations and Latin American nations, and a negative effect in Eastern European nations and in the baseline model. Similar patterns were found with the dynamic between gun availability and homicide. No effect was found in the baseline model, but positive significant effects were found in Latin American nations and negative significant effects were found in Western nations and Eastern European nations.

These results suggest that the extent that guns are considered the weapon of choice for the commission of violence is largely shaped by cultural and socio-historical factors. In Western nations citizens appear to be more likely to view guns as the weapon of choice when committing violence, but apparently this preference for guns does not increase overall levels of lethality. Rather, this preference for use of guns seems to decrease overall rates of homicide. Perhaps Western citizens view guns as a defense mechanism against the aggression of others, rather than a tool to be used with the intent of causing great bodily harm or death. In Latin American nations it appears that gun availability increases both the preference for guns and the lethality of violence. This suggests that citizens of Latin American nations have a preference for gun use, and the sheer availability of guns in these nations increases the likelihood that violent altercations result in death. It may also suggest that a greater use of guns in Latin American violence represents [the] greater likelihood that Latin American aggressors intend to greatly harm or kill their victims. An entirely different dynamic seems to be occurring in Eastern European nations. It seems that guns are primarily being used in these nations as a deterrent against potential aggression in an era characterized by weakened collective security.

In addition to the direct effects of gun availability exhibited here, gun availability was found to suppress the effects of urbanization on gun homicide in Latin American nations and to mediate the effects of economic inequality on homicide in Western Developed nations and Eastern European nations. The suppression effect suggests that the effects of gun availability on homicide may not be as pronounced in Latin American nations with high levels [of] urbanization. This finding is somewhat counter intuitive but may suggest that citizens are more likely to benefit from the guardianship of others in densely populated areas of Latin American nations. The mediation effects suggest that the extent that economic inequality influences homicide across Eastern European nations is contingent upon gun availability levels.

These findings also reveal that the causes of gun homicide and homicide diverge considerably. This was especially the case in the regional models. In some instances, a particular variable that influenced gun homicide was not found to influence homicide. In other instances, the effect was significant for both variables but the effect signs were in opposite directions. This suggests that criminologists must look to develop distinct explanations for the occurrence of weapon violence across nations.

Gun availability was not the only indicator to exhibit variable effects on violence across regions. Several of the control variables operated to influence violence in a similar manner. For example, economic inequality — one of the most robust predictors of homicide at the cross-national level — exhibited strong positive effects on homicide in the models that included Eastern European

nations, negative effects in Western nations, and no effects in Latin American nations. This suggests that even the effects of robust predictors of violence, such as economic inequality, are influenced by socio-historical and cultural factors.

One question that emerges from these results concerns the anomalous findings related to our statistical controls and homicide. That is, in some models economic inequality, urbanization, and young males all exhibited effects contrary to what might be expected. It is not entirely clear why this occurred, but the following explanations are given here. First, one potential explanation for the negative effect of economic inequality on homicide is that the relationship is non-linear. A recent article by Jacobs and Richardson found that the relationship between economic inequality and homicide changes from positive to negative at extreme levels of inequality. The inclusion of Latin American and Eastern European nations in this analysis led to a higher proportion of nations with extreme levels of economic inequality being examined than what is normally the case in cross-national criminological research. Second, the negative relationship between urbanization and homicide that was found in the Eastern European models may suggest that urban areas provide greater protection for potential victims in these societies. This seems especially plausible if a considerable proportion of the homicides committed in these nations occur in rural areas. Third, the negative relationship between young males and violence in Latin American and Eastern European nations may suggest that older adults commit a higher proportion of homicides in these nations than the proportion committed by older adults in Western nations. Indeed, previous research has found evidence of higher rates of violence among older adults in Eastern Europe.

Taken together, these results point to the need for greater consideration of the role that cultural and socio-historical factors play in influencing the manner that structural predictors influence homicide. Indeed, one assumption implicit in much of the existing cross-national research is that the effects of important structural predictors such as gun availability and economic inequality are invariant across nations. These finding[s] suggest that this may not be the case. Instead, the unique cultural and socio-historical processes occurring across nations may be more important than many assume.

The results of this study have implications for theory and research on guns and violence. These results suggest that theoretical advancement of this relationship is contingent upon the ability of criminologists to address two issues. First, researchers must identify the macro-social processes that link gun availability to homicide at the cross-national level. Most of the macro-level research on guns and violence is reductionist in nature. Assuming that micro-social dynamics account for macro-level processes, however, limits our ability to address important questions that have emerged from cross-national research. For example, applying the weapon instrumentality hypothesis to the cross-national level leads one to assume that, under all circumstances, increasing gun availability will increase homicide. Such a straightforward application does not allow for consideration of the macro-level factors that may mediate or moderate the effects of gun availability on homicide. . . .

The utility of the approach proposed by Corzine et al. (1999) is further illustrated when it is applied to an explanation of why gun availability is more likely to lead to homicide in Latin American nations than Western Developed and Eastern European nations. Existing cultural explanations of violence in Latin America conceptualize these nations as having higher levels of machismo. This machismo is said to be characterized by aggressive masculinity, domination of

women, and the use of violence. The problem with such values based approaches is that they are difficult to empirically test because behavioral manifestations of values are often constrained by how culture organizes and patterns behavior. In other words, people in a certain nation may aspire to solve altercations peacefully, but the “strategies of action” outlined by the culture may encourage, or even require, the use of physical violence. A more fruitful approach may be to examine if the cultural toolkits in Latin American nations are more likely to legitimate the use of a firearm and sanction the commission of interpersonal violence than the toolkits of other nations. Applying this approach to Eastern European nations would lead one to ask if the unique socio-historical changes that have occurred in Eastern European nations in recent decades have led to the development of a cultural toolkit that legitimates the use of weapons for personal defense and to reduce the likelihood of interpersonal violence. . . .

Future research should also explore potential non-linear relationships between gun availability, gun homicide, and homicide. These examinations should consider non-linear relationships in cross-national samples and samples of specific cultural regions. Examinations of such relationships may be important because it is plausible that gun availability will only be associated with homicide after certain levels of gun availability are reached. It is equally plausible that once gun availability levels reach a saturation phase the strength of the association between gun availability and homicide may become attenuated.

APPENDIX

TABLE 5 Nations included in analyses

| <i>Baseline Models</i> | | <i>Western Models</i> | <i>East European Models</i> | <i>Latin American Models</i> |
|------------------------|-------------|-----------------------|-----------------------------|------------------------------|
| Argentina | Latvia | Australia | Croatia | Argentina |
| Australia | Lithuania | Austria | Czech Rep | Brazil |
| Austria | Luxembourg | Canada | Estonia | Chile |
| Brazil | Malta | Finland | Hungary | Costa Rica |
| Canada | Mexico | France | Kyrgyzstan | Dominican Republic |
| Chile | Moldova | Germany | Latvia | Ecuador |
| Costa Rica | Netherlands | Luxembourg | Lithuania | El Salvador |
| Croatia | New Zealand | Netherlands | Moldova | Mexico |
| Czech Republic | Nicaragua | New Zealand | Poland | Nicaragua |
| Dominican Republic | Norway | Norway | Romania | Panama |
| Ecuador | Panama | Spain | Slovakia | Paraguay |
| El Salvador | Paraguay | Sweden | Slovenia | Venezuela |
| Estonia | Poland | UK | | |
| Finland | Romania | USA | | |
| France | Slovakia | | | |
| Germany | Slovenia | | | |
| Hungary | Spain | | | |
| Israel | Sweden | | | |
| Japan | UK | | | |
| Korea | USA | | | |
| Kyrgyzstan | Venezuela | | | |

TABLE 6 Correlations and descriptive statistics for nations included in analysis (N = 233)

| | 1. | 2. | 3. | 4. | 5. | 6. | 7. | 8. | 9. |
|----------------------|---------|----------|----------|----------|---------|----------|--------|--------|-------|
| Log Gun Homicide | 0.352** | | | | | | | | |
| Log Homicide Rate | 0.506** | -0.001 | | | | | | | |
| Log Gun Availability | -0.072 | -0.604** | 0.274** | | | | | | |
| Log GDP | 0.479** | 0.740** | -0.140* | -0.475** | | | | | |
| Inequality | 0.182** | 0.774** | -0.336** | -0.678** | 0.620** | | | | |
| Young Males | 0.449** | 0.033 | -0.162* | -0.071 | 0.370** | 0.215** | | | |
| Sex Ratio | 0.111 | -0.034 | 0.289** | 0.372** | 0.112 | -0.246** | -0.095 | | |
| Urbanization | 0.289** | -0.365** | 0.457** | 0.448** | -0.202* | -0.530** | 0.065 | 0.158* | |
| Social Support | -1.547 | 1.193 | -0.261 | 9.455 | 35.381 | 0.314 | 96.154 | 0.110 | 7.517 |
| Mean | 0.988 | 1.170 | 1.202 | 0.926 | 9.138 | 0.034 | 3.982 | 11.801 | 1.97 |
| Standard Deviation | | | | | | | | | |

*p < .05, **p < .01

NOTES & QUESTIONS

1. After reading the preceding studies, what effects on crime and suicide rates would you expect to see if the rate of private gun ownership in a given nation increases substantially? What effects if gun ownership decreases?
2. How do the findings by Altheimer and Boswell affect the conclusions of the two earlier articles (Killias et al., and Kates and Mauser)? Do the conclusions reached in the two earlier studies need to be revised or qualified in light of this one? How could you harmonize them all?
3. The previous three studies considered the variable of the per capita number of guns or handguns in a nation. An additional variable, which was not explored, is how the firearms were acquired. Consider Altheimer and Boswell's finding that more guns are correlated with decreased homicide in Eastern Europe, and with increased homicide in Latin America. During the period from the late 1940s through 1989, when Eastern Europe was under the neo-colonial hegemony of the Soviet Union, gun laws there were extremely repressive. See David B. Kopel, Paul Gallant, & Joanne D. Eisen, *Firearms Possession by "Non-State Actors": The Question of Sovereignty*, 8 *Tex. Rev. L. & Pol.* 373, 435 (2004). After the fall of the Berlin Wall, firearm laws in Eastern Europe were greatly liberalized, allowing many people to acquire firearms legally. In much of Latin America, government corruption and distrust of the public may make it nearly impossible for a citizen to acquire a firearm lawfully. For example, in 2012, the Hugo Chavez regime in Venezuela banned all firearms purchases. Accordingly, gun acquisition in some parts of Latin America may operate primarily through the black market. Could the differences in firearms acquisition patterns be one cause of the contrasting results that Altheimer and Boswell found between Latin America and Eastern Europe? Nearly a quarter century after scholars first began serious research on comparative gun control law, a great deal remains unknown.
4. Consider a roughly parallel phenomenon in the United States, where shall-issue concealed-carry laws adopted in the last quarter-century have dramatically increased the number of people carrying and permitted to carry guns in public. These people all have gone through a screening process to determine that they are not criminals or otherwise disqualified from possessing and carrying a firearm. As discussed in Chapters 8 and online Chapter 12, the effect of the shall-issue laws has been neutral at worst and some argue it has generated substantial social benefits. Do you think that the results would be the same if there were a similar increase in gun carrying by people who were legally prohibited from possessing or carrying firearms? Where obtaining a license to carry was impossible? As a policy maker, would you most want to control the distribution of firearms across segments of the population or the overall gun inventory?
5. What do you think of the Killias et al., and Altheimer and Boswell, studies removing extreme results with no obvious causes (called "outliers" by Killias

et al.) in an attempt to prevent the effects of confounding factors from upsetting the studies' results? What about Killias et al.'s exclusion of Northern Ireland from homicide results because there is a civil war there? Which, if either, of these methods for identifying and correcting for skewed data are you comfortable with? What might be some confounding variables that are more difficult to detect than, say, a civil war? What are the best ways to go about looking for these variables?

6. A review of even the most basic statistics test will reveal that all statistical models are laden with assumptions. These assumptions can be very basic and mathematically oriented—for example, that the relationship between guns and crime or suicide can be explained using a linear model—or more complex and involve important value judgments—for example, not differentiating between justified and unjustified homicides. What are some assumptions that underlie each of the three studies discussed in this section so far? What are some factors that were not mentioned by the studies' authors that may explain their conclusions? What is the role of what some scholars call “ordinary reasoning” in *both* setting up *and* interpreting statistical studies? For example, how much credence would you lend to a study that “showed with data taken literally from a telephone book that telephone numbers are ‘significantly associated’ with psychometric variables”? Stephen T. Ziliak & Deidre N. McCloskey, *The Cult of Statistical Significance: How the Standard Error Costs Us Jobs, Justice, and Lives* 47 (2007). When is it acceptable to infer causation from correlation?
7. Evaluate and compare the following statements in the Altheimer and Boswell article:
 - a. “The model reveals that economic inequality, proportion young males, and urbanization all influence rates of gun homicide.”
 - b. “[T]he effects of economic inequality, proportion young males and urbanization are opposite of what might be expected.”
 - c. “Increases in unavailability are associated with subsequent decreases in homicide.”
 - d. “Gun availability has a negative effect on gun homicide.”
 - e. “Gun availability was not the only indicator to exhibit variable effects on violence across regions. Several of the control variables operated to influence violence in a similar manner.”

Kates and Mauser argue that social factors, not gun laws, drive violent crime and gun crime. Altheimer and Boswell argue that the effects of increased guns vary by society: more guns lead to less homicide in Eastern Europe, but to more violent crime in Latin America. Meanwhile, Killias et al., focusing on North America and Europe, argue that some types of violent crime and/or suicide may be increased by the increased presence of privately owned guns in society. In the excerpt below, Professor Johnson considers a separate question. Even if one concludes that private gun ownership invariably leads to social harm, could government ever effectively impose a program of legal

prohibitions on gun ownership in a society like the United States? Assume, *arguendo*, that the United States would be much better off with very low rates of gun ownership in the range of countries like the Netherlands, or even the moderate (but still high by global standards) rates of France, Germany, or Italy. Johnson suggests that conditions in the United States render the more stringent gun control policies of other countries nontransferable to the United States.

Nicholas J. Johnson, *Imagining Gun Control in America: Understanding the Remainder Problem*
43 *Wake Forest L. Rev.* 837 (2008)

I. . . . THE SUPPLY-SIDE IDEAL

The conclusion that some horrible gun crime would not have happened if we had prevented the scoundrel from getting a firearm is straightforward and quite natural. This calculation is the foundation for views that advance supply-side gun regulation as a recipe for crime control. It conforms to simple tests of logic. Consider two scenarios. In the first, we are sitting in a room with a gun in the middle. In the second, our room is gun free and sealed — the supply-side ideal. The risk of gun violence is obviously higher in the first scenario. Indeed, absent creative cheating, it is zero in the second. Projecting this dynamic to society generally allows the claim that laws limiting the supply of guns in private hands will dramatically reduce gun crime. . . .

The supply-side ideal remains the philosophical foundation of the modern quest for restrictions on access to firearms sufficient to thwart gun crime. But there is a problem. In our political skirmishes over new, more aggressive supply regulation, the supply-side ideal has receded into the background. We have not talked candidly about what is necessary for the supply-side formula to work. We have not confronted the reality that the existing inventory of guns is vast.

As a consequence, supply-side controls, often implemented prospectively, without explicit commitment to disarming ordinary Americans, have affected only a tiny fraction of the inventory. It is as if we are in the sealed room, but now everybody has a gun or two tucked away, there are piles of them in the corners, and we are debating reducing gun violence with laws that allow only one more gun a month or no more guns with high capacity magazines. Our results have been disappointing because supply-side rules depend, ultimately, on cutting the inventory close to zero. And that, in America, is a problem.

II. CHALLENGES TO THE SUPPLY-SIDE IDEAL

Erring on the high side, there are around 13,000 gun homicides in the United States each year. Suicides with a firearm add another 17,000 deaths. If there were only 30,000 private guns in America, and we knew where they were, it would be easy to imagine mustering the political will to confiscate those guns and ban new ones. If our borders were reasonably secure against illegal imports

and contraband guns could not be manufactured domestically, we would expect dramatic reductions in gun crimes, accidents, and suicides.

But our problem is different. The guns used in our roughly 30,000 annual gun deaths are drawn from an inventory approaching 300 million. This is far more guns than the countries in any of the cross-cultural comparisons—far more private guns than any other country ever. Americans own close to half the private firearms on the planet. Plus, our borders are permeable, and guns and ammunition are relatively easy to manufacture. So achieving the supply-side ideal is not just a matter of channeling enough outrage to finally get the right words enacted into law.

1. POROUS BORDERS

We modeled the supply-side ideal on the gun-free sealed room. The single qualification was the assumption that no one in the room was cheating. And cheat they might, if the incentives were sufficient and the boundaries of the room permeable. Effective supply-side restrictions at the societal level have to account for this.

So what about this cheating? If we managed to enact supply-side restrictions with real bite, would cheating be pervasive? Could it be controlled? Perhaps the level of cheating would be small. A black market fueled just by this cheating might make guns prohibitively expensive for many people with bad intentions. With fewer bad people able to afford the higher prices caused by restricted supply, there should be a reduction in gun crime.

One worry, however, is the argument that the most dangerous among us have an inelastic demand for guns. Criminal penalties for gun possession or use will not matter much to people whose primary activities are already illegal. Daniel Polsby contends that their static demand will be supplied through the same channels that distribute other contraband. . . .

[S]ome contraband imported guns will be more lethal than the ones they replaced. In Britain, after further tightening of already stringent gun laws, the black market began supplying previously unseen and more lethal guns. Ireland banned handguns in the early 1970s and a large group of rifles and repeating shotguns in 1976.¹³ “Despite these measures, in the early 2000s the Irish police . . . were reporting steep increases in gun crime.”²⁹ The most serious concern being “an invasion of handguns and automatics smuggled in from Europe,” many of them “semi-automatic pistols and sub-machine guns, previously unknown in public hands.”³⁰ Swedish police report a similar phenomenon: “Before, there were a lot of shotguns — now it’s all automatic weapons.”³¹

13. [1973, the police collected all registered handguns, ostensibly for ballistics testing, and then refused to return the handguns to their owners. In 2004, Irish courts ruled the de facto ban illegal, and ordered the police to resume issuing handgun permits. See David B. Kopel, *Ireland on the Brink*, *America’s 1st Freedom* (Apr. 2011). — Eds.]

29. [Small Arms Survey, Graduate Inst. of Int’l Studies, *Small Arms Survey 2007: Guns and the City* 44 (2007).]

30. *Id.* (citation omitted).

31. *Id.* at 56 (internal quotation marks omitted) (citation omitted).

Even without sweeping supply restrictions, the United States has encountered this phenomenon. In 1996, authorities intercepted a shipment of two thousand AK-47s from China. Unlike the semi-automatic rifles that were prohibited under the expired 1994 Assault Weapons Ban, these black-market imports really were fully automatic machine guns. In 2005, federal authorities broke up a network of arms suppliers who illegally imported fully automatic rifles from Russia and had arranged to sell anti-tank guns to an undercover officer. . . .

2. DEFIANCE IN PRACTICE

Data tracking defiance of registration and prohibition internationally, and similar domestic experiments, provide a basis for projecting how people will react to aggressive supply-side rules. The most notable domestic experiment with prohibition was in Washington, D.C. Until the challenge culminating in *Heller* [Chapter 9], the District of Columbia banned handguns and required long guns to be kept disassembled and locked away from their ammunition. Overall, this was the most aggressive set of supply restrictions in the country. There is no dispute that handgun prohibition failed to stop gun crime in D.C. The District has been perennially at or close to the top of the list for gun crime in American jurisdictions.¹⁴

The efforts of other restrictive U.S. jurisdictions tell more about the defiance impulse and the character of the remainder problem. New York City imposes stringent requirements on purchase and ownership of handguns. Still, handgun crime persists. New York City Mayor Michael Bloomberg's straw purchase "stings" confirm that tough municipal laws alone are not enough. The source of some of the contraband guns in Bloomberg's sights come from scofflaw dealers from other states. But this is literally only a basketful of guns. The number of illegal guns in New York City is in the range of two million.⁶⁷ This is in a region where the overall rate of gun ownership is lower than average and gun culture is less robust. The roughly two million guns [illegally] owned by the residents of New York City are from sources much more disparate than rogue dealers. Some of these guns are new, but an inventory this large suggests that many New Yorkers have had guns, have been acquiring guns, and deciding to keep guns illegally for a long time. This type of defiance should be stronger in most other parts of the country, where gun culture runs deeper.

The city of Chicago also has very restrictive gun laws. Still, between 1999 and 2003, Chicago averaged about 10,000 illegal gun confiscations per year. In one particular high-crime neighborhood studied by Cook et al., there was

14. [See Chapter 10.C, Notes & Questions. — Eds.]

67. It is estimated that as many as two million illegal guns were in circulation in New York City in 1993. Ninety percent of the guns seized in New York City that year were originally purchased in other states. There are no precise measurements of what proportion of New York's total contraband inventory are recent imports versus classic remainders. See U.S. Dep't of Justice, Office of Juvenile Justice & Delinquency Programs, *Getting Guns Off the Streets* (1994-2008), http://ojjdp.ncjrs.org/pubs/gun_violence/profile19.html. . . .

approximately one illegal gun sale per thirty people each year.⁷³ Stripping out children from the count, this rate seems sufficient to achieve saturation in less than a generation.

The rates of non-compliance with state assault weapons bans tell a similar story. James Jacobs and Kimberly Potter report:

In recent years, several states and municipalities passed laws mandating the registration [and subsequent prohibition] of assault rifles. These laws failed miserably, primarily due to owner resistance. In Boston and Cleveland, the rate of compliance with the ban on assault rifles is estimated at 1%. In California, nearly 90% of the approximately 300,000 assault weapons owners did not register their weapons. Out of the 100,000-300,000 assault rifles estimated to be in private hands in New Jersey, 947 were registered, an additional 888 were rendered inoperable, and four were turned over to the authorities.⁷⁶

Data from international experiments with gun prohibition and registration illustrates a powerful and nearly universal individual impulse to defy gun bans. With data from seventy-seven countries, the International Small Arms Survey reports massive illegal parallel holdings with an average defiance ratio of 2.6 illegal guns for every legal one. This average is pulled down by rare cases like Japan. But even the Japanese, whose society David Kopel casts as the polar opposite of our gun culture, experience “unregistered [gun] holdings . . . one-quarter to one-half as large as registered holdings.”¹⁵ . . .

This level of defiance cannot be explained by the observation that criminals have an inelastic demand curve. A large slice of the ordinary citizenry seems to be operating under the same curve. Across the board, for countries large and small, developed and emerging, a strong defiance impulse is evident.

In England and Wales there were 1.7 million legally registered firearms in 2005; illegal, unregistered guns were estimated as high as 4 million. The Chinese reported 680,000 legal guns in 2005, with estimates of nearly 40 million illegal guns. The German police union estimates that Germany has “about 45 million civilian guns: about 10 million registered firearms; 20 million that should be registered, but apparently are not; and 15 million firearms such as antiques . . . and black-powder weapons . . . that do not have to be registered.”

The German experience also tells us something about the staying power of defiance. Registration was introduced in Germany in 1972 “when the nation’s civilian holdings reportedly totaled 7-20 million firearms.” Only 3.2 million of these guns were registered. “In the thirty-five years since then, roughly 8 million additional firearms were legally acquired, accounting for the rest of the registered guns thought to exist today.”

73. [Philip J. Cook et al., *Underground Gun Markets* 6 (Nat’l Bureau of Econ. Research, Working Paper No. 11737, 2005).]

76. [James Jacobs & Kimberly Potter, *Comprehensive Handgun Licensing & Registration: An Analysis and Critique of Brady II, Gun Control’s Next (and Last?) Step*, 89 J. Crim. L. & Criminology 81, 106 (1998).]

15. [The estimates of legal and illegal guns starting in this and the next three paragraphs are from the Small Arms Survey, *supra* note 29, at 46-55. — Eds.]

With close to 7 million registered guns, Canada is estimated to have about 10 million unregistered guns.¹⁶ Brazil reports nearly 7 million registered guns and estimates 15 million unregistered. India reports fewer than 6 million registered guns against an estimated 45 million illegal ones. France has less than 3 million guns registered and estimates nearly 20 million unregistered. Mexico reports fewer than 5 million registered with about 15 million unregistered guns. Jordan has 126,000 registered guns and an estimated 500,000 illegal ones. Sudan reports about 7,000 registered and 2.2 to 3.6 million illegal ones.

While there are exceptions like Japan, where illegal guns are a fraction of those legally registered, nearly every country surveyed produced estimates of illegal guns that are a multiple of legal guns. Extrapolation from these rates of defiance to projections about the United States also must account for our unparalleled gun culture. Extrapolating ninety to ninety-nine percent defiance from state or municipal assault weapons bans seems too aggressive. But, conservatively, the international data show that we should expect three or more people to defy confiscation for every one who complies.

Nothing else in our experience contradicts these signals. Many people evidently believe guns protect against things they fear more than criminal sanctions. The risk-reward calculation that pushes ordinary people to obey a wide array of criminal laws seems different here.

The American attachment to the gun is exceptional. We own close to half the world's private firearms and buy half the world's output of new civilian guns each year. This demand and cultural attachment highlight an obstacle to the supply-side ideal that may be unique to the United States. Whatever courts say about the Second Amendment, a majority of Americans believe they have a right to own a gun. This belief, as much as any court pronouncement, will drive defiance of confiscation. Even if *Heller* [Chapter 9] is ultimately nullified, the opinion itself, along with the powerfully reasoned circuit court opinions in *Parker v. District of Columbia* and *United States v. Emerson* [Chapter 8], are more than sufficient to rationalize civil disobedience by people who ultimately would have defied confiscation anyway. If the Supreme Court [simply reversed *McDonald v. City of Chicago* (Chapter 9), eliminating the Second and Fourteenth Amendments]¹⁷ as a limitation on state lawmaking, the capacity of individual states to implement confiscation laws still seems near zero, with the defiance impulse of gun-owning citizens validated by recognition of a federal right, and few people bothering with the federalist details.

The risk of noncompliance in this context is different from the run-of-the-mill cheating that might afflict any prohibition legislation. This means we must expand our thinking about noncompliance beyond the idea that criminals will resist confiscation. What does it mean that otherwise law-abiding people will hold back some portion of the gun inventory in defiance of sweeping supply-side restrictions? What consequences should we anticipate? . . .

Pure supply-side rules are fatally compromised by the remainder problem. . . . Some proposals are hybrids, however, and thus are affected by

16. [Canadian gun registration is detailed later in this chapter. — Eds.]

17. [The original text, written before *McDonald v. City of Chicago* (Chapter 9) was handed down, read “. . . fails to incorporate an individual right. . . .” — Eds.]

the remainder problem in more limited and unique ways. Other proposals detach from supply-side theory almost entirely and are not snared by the remainder problem. . . . It is best to acknowledge the blocking power of the remainder problem and adjust our gun control regulations and goals to that reality.

NOTES & QUESTIONS

1. *Ammunition control?* Do Professor Johnson’s arguments that “supply side” control of guns is impracticable in America apply equally well to controls on ammunition? Guns are easily hidden and can be used for generations with minimal maintenance. Quality ammunition will also last for decades, but unlike firearms, ammunition is depleted by usage. Could prohibitory ammunition controls eventually render guns useless and undermine the strong shooting culture in a society like America? Or is supply of ammunition held by citizens sufficient to supply a black market for the foreseeable future? Note that some components of ammunition, such as brass cases and lead bullets, are fairly easy to replicate at home, but chemical primers and smokeless gunpowder are not (though the older, “black powder” gunpowder can be made at home).

2. *Recent temporary shortages of ammunition and primers.* During the run-up to the 2008 election, and for quite a while afterwards, many gun owners were concerned that the new President would be as aggressively anti-gun as President Clinton, or even more so. As a U.S. Senator and Illinois State Senator, Barack Obama had a long record of voting for prohibitory and confiscatory legislation. See David B. Kopel, *FactCheck Flubs Obama Gun Fact Check*, Volokh Conspiracy (Sept. 23, 2008, 11:39 A.M.), <http://www.volokh.com/posts/1097077179.shtml>. The same was true when a recently reelected President Obama began a major campaign for firearm restrictions in December 2012, after the Newtown, CT, murders. There was a massive increase in gun sales, and an even larger increase in ammunition sales, which resulted in many stores’ running out of popular calibers of ammunition.
 During these periods the worst shortage of all, from the ordinary buyer’s viewpoint, was the acute shortage of *primers*, which were apparently being bought up in tremendous quantities for keeping as long-term reserves. As discussed in Chapter 15, home manufacture of ammunition (“reloading” or “handloading”) is very common, and not particularly difficult. But the primer caps used in modern metallic cartridges cannot easily be made at home.

3. Would prohibition of firearms be easier or harder to accomplish than drug or alcohol prohibition? If we accept the many secondary harms of drug prohibition, why not gun prohibition?

4. Consider the following moral questions (perhaps only in private): What would you do if new, severe gun control laws were enacted in your jurisdiction, and you then learned that a friend and/or family member was keeping a secret cache of prohibited weapons and ammunition? What actions would

you be willing to take to help him or her? Or would you take actions to ensure that he or she were apprehended and punished? Or would you just keep quiet about the whole thing? Would your answer vary depending on *why* your friend or family member had chosen to keep the illegal weapons?

5. If there were a magical way to get rid of all guns, would the world be better off? Would all the world then be more like low-crime Japan? (Discussed in Section C of this chapter.) Or would we then live in a world where, as in the Dark Ages, the physically strong could always have their way with the weak? See David B. Kopel, Paul Gallant, & Joanne D. Eisen, *A World Without Guns*, Nat'l Rev. Online (Dec. 5, 2001), <http://davekopel.org/NRO/2001/A-World-Without-Guns.htm>.
6. Does the statistic in the U.S. Department of Justice's report in note 67 of Professor Johnson's article that there are 2 million illegal guns in New York City seem reasonable given that New York City has a population of about 8.25 million?

Professor Johnson argues above that features of the American gun culture would make confiscatory gun controls difficult to implement effectively in the United States. In the following excerpt, authors Kopel, Moody, and Nemerov argue that widespread civilian gun ownership may itself shape the national culture and be shaped by it.

**David Kopel, Carlisle Moody & Howard Nemerov,
Is There a Relationship between Guns and Freedom?
Comparative Results from 59 Nations
13 Tex. Rev. L. & Pol. 1 (2008)**

. . . Using data on per capita firearm ownership from the Small Arms Survey, this Article examines the relationship between per capita firearm rates and several measures of freedom. These measures are:

- Freedom House's ratings of political rights (such as free elections) and civil liberty (such as freedom of religion).
- Transparency International's ratings of government corruption levels.
- Heritage Foundation's ratings of economic freedom. . . .

III. RESULTS

The data for each country are presented in Table 7, found in the Appendix. The fifty-nine nations with per capita firearms estimates are listed in order, from those with the lowest to those with the highest. The list begins with low-firearms countries of Romania, Japan, Moldova, and Poland. It ends with high-firearms

countries such as Switzerland, Finland, Yemen, and the United States. The ratings from *Freedom in the World*, *Corruption Perceptions Index*, *Index of Economic Freedom*, and the World Bank PPP¹⁸ are also listed for each country.

Next, we divided the nations into quartiles based on their gun ownership rates. For each quartile, we averaged the nations’ ratings for political and civil liberty from *Freedom in the World*, for corruption from *Corruption Perceptions Index*, and for economic freedom from the *Index of Economic Freedom*. Results are presented in Table 1.

The most notable difference between the quartiles involves corruption. The top quartile has an average of 7.09 in the *Corruption Perceptions Index*, which means this quartile could be called “mostly clean.” All the other quartiles score between 4.31 and 4.75, scores that indicate moderate corruption.

The differences in *Freedom in the World* rating are not as large. One reason is that *Freedom in the World* has a 1-7 scale with only 7 steps, whereas the *Corruption Perceptions Index* has a 0-10 scale with 11 steps. But even taking into account the relative compression of the scale used by *Freedom in the World*, the differences between the top quartile and the rest are relatively smaller. Still, the average of the countries in the first quartile is “free,” according to the *Freedom House* definition, while the average for all other quartiles is “partly free.”

On the *Index of Economic Freedom*, all quartiles averaged a “moderately free” rating. Nevertheless, the first quartile had the highest average, but not quite 70, which is the threshold for “mostly free.”

For all three indices of liberty, the top firearms quartile rates higher than every other quartile.

This is not to say that every country in a certain quartile is better than countries in lower quartiles. For example, the top firearms quartile has the highest average rating in *Freedom in the World*, but it includes Angola, rated “not free,” Saudi Arabia, also rated “not free,” and Yemen, rated “partly free.” On the *Index of Economic Freedom*, Angola is “repressed,” while Saudi Arabia and Yemen are rated “mostly unfree.” Conversely, the bottom firearms quartile includes Japan and the Netherlands, who both have low levels of government corruption, and high levels of political, civil, and economic liberty.

Table 1: Firearms Ownership Quartiles Compared with Liberty Indices

| <i>Quartile</i> | <i>Firearms Per 1,000 Population</i> | <i>Freedom in the World (1-7, lower is better)</i> | <i>Corruption Perceptions Index (0-10, higher is better)</i> | <i>Index of Economic Freedom (0-100, higher is better)</i> |
|-----------------|--------------------------------------|----------------------------------------------------|--------------------------------------------------------------|------------------------------------------------------------|
| 1 | 388 | 1.93 | 7.09 | 69.79 |
| 2 | 145 | 2.80 | 4.35 | 63.59 |
| 3 | 81 | 2.53 | 4.75 | 62.57 |
| 4 | 24 | 2.32 | 4.31 | 63.03 |
| Average 2-4 | 84 | 2.56 | 4.47 | 63.06 |

18. [Purchasing Power Parity (PPP) rates the relative strength of the currencies of different countries. Currency exchange strength is not a perfect measure of a nation’s economic success. Nevertheless, prosperous countries tend to have much stronger currencies than do poor countries, so PPP is usually valid as a rough measure of national economic success, at least for currencies that are allowed to rise and fall freely. — Eds.]

The similarity in ratings among the three lower quartiles is interesting. For example, their Corruption Perceptions Index ratings averaged between 4.31 and 4.75 and their Index of Economic Freedom ratings are nearly identical, falling between 62.57 and 63.59.

While the top firearms quartile rates highest in all categories, the relationship between firearms and liberty is inconsistent among the lower three quartiles. For example, among the lower three quartiles, the second quartile rates slightly higher on the Index of Economic Freedom, while the third quartile has the best rating on the Corruption Perceptions Index, and the fourth quartile has the best Freedom in the World rating.

Next, we looked at the data by quintiles based on firearms per capita. The results are in Table 2.

When sorted by quintiles, the top firearms quintile averaged “mostly free” on the Index of Economic Freedom, while the lower quintiles averaged “moderately free.” The first and second quintiles rate notably better in the Corruption Perceptions Index than do the first and second quartiles. There is a large gap between the first and second quintiles, although not quite [as] large as between the first and second quartiles. The top quintile’s success in Freedom in the World is even more pronounced than the top quartile’s success.

As with the quartile analysis, the lower quintiles do not rank on the other indices in accordance with their firearms per capita. The second quintile’s average ratings on the Corruption Perceptions Index and the Index of Economic Freedom are better than all lower quintiles, but the lowest quintile’s average Freedom in the World rating is better than that of quintiles 2-4.

When we looked at the countries with the most guns, we saw that they had the most freedom as measured by the liberty indices, but the relationship was only pronounced for high-gun countries. There was no difference between medium-gun and low-gun countries. Suppose we look at the relationship the other way and ask, “Do countries with the most freedom have the most guns?” Table 3 provides the results.

When sorted by the Freedom in the World rating, the freest countries (scores of 1 for both political rights and civil liberties) had the highest density of civilian firearms, and averaged the best Corruption Perceptions Index and Index of Economic Freedom of any group. Countries rated “free” but having

Table 2: Firearms Ownership versus Liberty Indices, by quintile

| <i>Quintile</i> | <i>Firearms Per 1,000 Population</i> | <i>Freedom in the World (1-7, lower is better)</i> | <i>Corruption Perceptions Index (0-10, higher is better)</i> | <i>Index of Economic Freedom (0-100, higher is better)</i> |
|-----------------|------------------------------------------|------------------------------------------------------------|--------------------------------------------------------------------------|--------------------------------------------------------------------|
| Top Quintile | 448 | 1.36 | 7.44 | 71.37 |
| Quintile 2 | 180 | 2.83 | 5.33 | 66.73 |
| Quintile 3 | 121 | 2.50 | 4.21 | 60.86 |
| Quintile 4 | 64 | 2.96 | 4.37 | 61.35 |
| Quintile 5 | 20 | 2.25 | 4.54 | 64.12 |
| Quintiles 2-5 | 96 | 2.64 | 4.61 | 63.26 |

Table 3: Freedom Rating versus Firearms and Other Indices

| <i>Freedom Rating</i> | <i>Freedom in the World (1-7, lower is better)</i> | <i>Firearms Per 1,000 Population</i> | <i>Corruption Perceptions Index (0-10, higher is better)</i> | <i>Index of Economic Freedom (0-100, higher is better)</i> |
|------------------------------------------|----------------------------------------------------|--------------------------------------|--------------------------------------------------------------|------------------------------------------------------------|
| Free (1) | 1.00 | 225 | 7.39 | 73.06 |
| Free (>1) | 2.04 | 81 | 3.99 | 61.29 |
| All Free [above two categories combined] | 1.33 | 180 | 6.32 | 69.34 |
| Partly Free | 3.57 | 129 | 3.09 | 57.80 |
| Not Free | 5.86 | 132 | 2.83 | 53.93 |

imperfect scores (above 1 on either political or civil freedom) had a lower firearms ownership rate than any other group. They also had a worse Corruption Perceptions Index and a lower Index of Economic Freedom than the freest countries. “Partly free” countries had much lower ratings in all indices than all “free” countries. “Not free” countries had the poorest scores.

We also looked at differences within the freest countries. Of the 59 countries, 26 scored a Freedom in the World 1 on political freedom and in civil liberty. These countries included some countries with very low levels of firearms ownership (e.g., Poland, Hungary, Estonia) as well as countries with much higher levels (e.g., Norway, Uruguay). Since there were only 26 countries in this data subset, we sorted these freest countries into thirds, by per-capita firearms ownership. The results are in Table 4.

In the Index of Economic Freedom, the thirds have very close scores. For PPP (economic success) the bottom third of gun ownership is significantly less wealthy. In corruption, the top two thirds are separated by only a third of a point, but they are both notably better than the bottom third. The data suggest that among the freest countries, higher levels of corruption and lower levels of wealth may have a significant inhibiting effect on gun ownership.

The results are similar if we divide the 26 freest nations into quartiles, and rank them by firearms ownership. The lowest ownership group has the worst scores on everything. The best scores for non-corruption are in the second highest quartile. In other respects, the top three quartiles are similar, except that the third quartile is weaker on PPP.

Table 4: Firearms Ownership versus Indices among the Freest Countries in the World

| <i>Third</i> | <i>Firearms Per 1,000 Population</i> | <i>Corruption Perceptions Index</i> | <i>PPP (lower is better)</i> | <i>Index of Economic Freedom</i> |
|--------------|--------------------------------------|-------------------------------------|------------------------------|----------------------------------|
| 1 | 463 | 7.84 | 23.38 | 72.39 |
| 2 | 197 | 8.16 | 26.44 | 75.40 |
| 3 | 42 | 6.23 | 48.56 | 71.31 |
| Average 2-3 | 119 | 7.19 | 37.50 | 73.36 |

Table 5: Firearms Ownership versus Indices among the Freest Countries in the World, by quartiles

| <i>Quartile</i> | <i>Firearms per 1,000 Population</i> | <i>Corruption Perceptions Index</i> | <i>PPP</i> | <i>Index of Economic Freedom</i> |
|-----------------|--------------------------------------|-------------------------------------|------------|----------------------------------|
| 1 | 484 | 7.64 | 24.14 | 72.36 |
| 2 | 255 | 8.9 | 20.83 | 75.88 |
| 3 | 120 | 7.52 | 37.50 | 75.97 |
| 4 | 31 | 5.74 | 49.00 | 68.84 |

Finally, we tested the data for statistical significance. We found three statistically significant¹⁹ relationships:

- more guns, less corruption;
- more guns, more economic freedom; and
- more guns, more economic success.

These statistically significant associations do not indicate the cause-and-effect relationships—such as whether guns are a cause or a consequence of prosperity, or whether the relationship runs both ways. That topic is discussed in the next Part of this Article. . . .

IV. CAUSE AND EFFECT

In Part IV, we sketch out some causal mechanisms and suggest some ways in which guns and freedom can have positive or negative relationships. We define “freedom” broadly to include each of the following measures: political and civil freedom (Freedom in the World), freedom from corrupt government (Corruption Perceptions Index), economic freedom (Index of Economic Freedom), and economic success (PPP). We argue that high levels of prosperity can provide a person with the means to exercise lifestyle and other personal choices. The various causal mechanisms are by no means mutually exclusive. Some of them may reinforce each other. Although only some of the relationships between guns and freedom are statistically significant, we discuss all possible relationships, both positive and negative. Even though a particular relationship might not be statistically significant in general, the relationship might be important in a particular country.

A. FREEDOM CAUSES GUNS

One set of relationships to examine is whether increased levels of freedom tend to lead to increased levels of gun ownership. For example, greater

19. [This term is here used in the technical sense, as described toward the beginning of this section. — Eds.]

economic freedom and economic success lead to greater prosperity, which in turn gives people more money to buy all sorts of consumer goods, including firearms. This explanation is supported by evidence from the last half-century in the United States. Although business regulation has grown over the last half-century, economic freedom has also increased in the United States. Federal tax rates are far lower: the top rate was 92% in 1952, and 35% in 2007. Free trade agreements have greatly reduced international trade barriers. The abolition of Jim Crow laws has allowed much greater participation by Black people in the economy. Thus, it is not surprising that per capita gun ownership in the U.S. has risen by 158% over the last half-century. America formerly had about one gun for every three people. Now, there is nearly one gun for every American.

Non-corruption could also increase gun ownership. If two nations have very similar statutory gun laws, but the first nation is much less corrupt than the second, then citizens in the first nation will have an easier time getting permits or licenses, completing purchases that need government approval, and so on. As noted above, there is a statistically significant relationship between higher per capita gun ownership and freedom from corruption, economic freedom, and economic success. Even within the countries with perfect scores for political and civil freedom, the third with the lowest gun ownership rates had a notably worse Corruption Perceptions Index than the other two.

Germany has a very extensive set of gun regulations (as it does for many other activities). Yet despite high regulation, Germany is eleventh out of the fifty-nine nations in per-capita ownership rates. The explanation may be that Germany is non-corrupt and prosperous: the German gun licensing system is generally administered according to objective criteria, and there is no expectation that a prospective gun owner might have to bribe a police officer to get a license. Further, Germany's PPP is better than 41 of the 48 countries it outranks in per capita ownership. As shown in Table 4, even within the countries with excellent economic and political-civil freedom, the lowest third for firearms per capita were much lower in PPP than the other two thirds.

Another possibility is that political liberty and/or civil liberty help cause gun ownership. Political systems that are more open may allow people who own guns, who want to own guns, or who want other people to have the choice, to participate more effectively in the political system, and to have their concerns addressed. In Canada, for example, firearms rights advocates played an important role in the 2006 election of Stephen Harper's Conservative party. The Harper government created an amnesty period for people who disobeyed the previous Liberal government's gun registration deadline, waived fees for certain gun licenses, and also deferred a regulation that would have raised the price of all new guns imported into or manufactured in Canada by about 200 Canadian Dollars. [Later, the Harper government abolished long gun registration, as detailed later in this chapter.]

Civil liberty, such as freedom of religion and speech, could also be a factor in higher gun ownership. Civil liberty can foster a culture of individual self-actualization, in which a person feels that he can control the course of his life

by choosing his religion (or choosing not to be religious), freely saying what he thinks and reading whatever he wants. Such a culture may also encourage people to exercise personal responsibility in other ways, such as by choosing to own a tool to protect themselves and their families rather than entirely relying on the state, or by providing some food for the family by hunting rather than having to buy all of one's food from supermarkets.

B. GUNS CAUSE FREEDOM

One way that guns cause freedom is by facilitating revolutions or wars of independence that replace one regime, often a colonial one, with a freer government. Examples of successful revolutions or wars of independence in which privately-owned arms played an important role are the American revolution against Britain, the Greek revolution against the Ottoman Empire, the Israeli revolution against Britain, the Irish revolution against Britain, and the Swiss revolution against the Austrian Empire. Long after the new nation has secured its freedom, high levels of gun ownership may persist or grow even higher, partly as a result of the collective positive memory of the freedom enhancing benefits of arms.

Guns in citizen hands may also help protect an already free nation by contributing to the defeat of a foreign invader, or by helping to deter a foreign invasion. An example of the former is the American victory at the Battle of New Orleans [Chapter 5.A.4] in 1815. An example of the latter is Swiss deterrence of Nazi invasion during World War II[, *infra*].

Firearms can also promote freedom in more localized ways. During the 1950s and 1960s, American civil rights workers were able to protect themselves from the Ku Klux Klan because so many civil rights workers had guns. The father of U.S. Secretary of State Condoleezza Rice carried a shotgun as part of a neighborhood civil rights safety patrol, which is why Secretary Rice opposes the government having a registration list of guns and their owners, Condoleezza Rice, *Extraordinary Ordinary People: A Memoir of Family 93* (2012) (Chapter 8.c.2). Similarly, former First Lady Eleanor Roosevelt carried a handgun for protection against Klansmen during her civil rights travels in the South in the 1950s.

More broadly, the exercise of one right may, for some persons, foster more positive attitudes about rights in general. This is one reason why American gun organizations such as the National Rifle Association and Gun Owners of America are strong supporters of First Amendment free speech rights, Fourth Amendment freedom from unreasonable or warrantless searches, Fifth Amendment property rights, and Tenth Amendment federalism.

C. FREEDOM REDUCES GUNS

Under certain conditions, increased freedom can lead to decreases in gun ownership. Under U.N. auspices, governments in nations such as Mali have

attempted to entice formerly oppressed tribal groups to surrender their guns. The promise is that the government will treat the tribal groups better, be less corrupt, be more respectful of due process, and so on, once the guns are surrendered.

For several years, the Mali disarmament program was successful. More recently, the government has not been keeping its promises, and the Tuareg tribes in northern Mali have been re-arming.²⁰ Even so, Mali shows that there can be circumstances in which greater freedom leads to fewer guns. In other nations, such as the Netherlands, a long history of democracy, respect for the rule of law, and clean government may result in people believing that they have no need for guns as a safeguard against tyranny.

D. GUNS REDUCE FREEDOM

There are many modern nations where it is easy to see how the widespread presence of guns in the wrong hands reduces freedom. Guns in the hands of warlords in the Ivory Coast, the Democratic Republic of Congo, and in Sudan/Uganda (the Lord’s Resistance Army) wreak havoc on civilian populations, making it nearly impossible for civil society and its attendant freedoms to exist.²¹ Guns in the hands of terrorists and extremists in places such as Lebanon, Gaza, the West Bank, and other places in the Middle East or South Asia are used to assassinate moderates for exercising their right of free speech, to murder women for not submitting to rigid gender restrictions, and to kill people for exercising their freedom to choose their own religion.

E. GUN CULTURES AND FREEDOM

One thing we know from the data is that the relationship between guns and freedom is often indirect. For example, Norway has high levels of guns and of religious freedom, but that is not because gun owners constantly protect churches from government attacks.

20. [For more on Mali, see David B. Kopel, Paul Gallant, & Joanne D. Eisen, *Micro-disarmament: The Consequences for Public Safety and Human Rights*, 73 UMKC L. Rev. 969 (2005) (examining UN-sponsored programs to disarm people in Cambodia, Bougainville, Albania, Panama, Guatemala, and Mali). — Eds.]

21. [For more on Uganda, see David B. Kopel, Paul Gallant, & Joanne D. Eisen, *Human Rights and Gun Confiscation*, 26 Quinnipiac L. Rev. 383 (2008) (examining gun confiscation programs in Kenya and Uganda, and South Africa’s quasi-confiscatory licensing law). — Eds.]

Accordingly, it may be helpful to consider the effect of gun culture, rather than direct uses of guns, as a partial explanation for this Article's findings. We should first explain what we mean by gun culture. To a firearms prohibition advocate in Great Britain, gun culture is an epithet, and it conjures images of dangerous gangs in downtrodden cities such as Manchester, dubbed "Gunchester" by some police, carrying illegal handguns for criminal purposes.

It is easy to see how a destructive gun culture, such as that of the British gangs, can harm a country's freedom ratings. For example, higher crime rates will reduce a nation's prosperity, and may lead to repressive government actions that reduce civil freedom. Great Britain, for example, has drastically weakened its centuries-old rule against double jeopardy, eliminated jury trials in many civil cases, and given the police the power to issue on-the-spot fines without due process.²²

"Gun culture" in America, however, has a benign connotation. People who use the term tend to be thinking about images such as father taking his son on a hunting trip, or of young people practicing target shooting with .22 smallbore rifles, under the supervision of expert marksmen at a gun club. Rather tellingly, in America, even elected officials who are the strongest proponents of much stricter anti-gun laws almost never criticize "the gun culture," but instead insist on their devotion to the Second Amendment. It seems reasonable to assume that countries that have relatively more guns per capita (e.g., the United States, France, Switzerland) will have a much stronger gun culture of the benign type, than will countries such as the Netherlands, Japan, or Bolivia, where lawful gun ownership is rare. A full explanation for why citizens in some nations are more rights-conscious than in other nations is beyond the scope of this Article. However, we suggest that one important factor in rights-consciousness may be the presence of a thriving benign gun culture.

Almost every legitimate purpose for which a person might own a gun can strengthen the person's feelings of competence and self-control. The hunter thinks, "I am a capable outdoorsman. I can put food on my family's table, and don't have to rely entirely on the supermarket." The defensive gun owner thinks, "I am ready to protect my family, because I know that the police may not come in time." The target shooter thinks, "I am skilled at a precise, challenging sport." Many gun owners may think, "If, God forbid, my country ever succumbed to tyranny, I could help my community resist." Almost all gun owners have made the decision, "Even though some people claim that guns are too dangerous, I am capable of handling a powerful tool safely."

22. [See David B. Kopel, *Gun Control in Great Britain: Saving Lives or Constricting Liberty?* (1992); David B. Kopel, *The Security Theatre Programme* (forthcoming Cato Institute).—Eds.]

For the countries in the top quintile for gun ownership (at least one gun per three persons), it is reasonable to assume that . . . many people in those countries have personal experience with a benign, individual-affirming gun culture. Participation in a benign gun culture is hardly the only way in which a person can have personal experiences that affirm and strengthen the individual's beliefs in his or her own competence. But when a country has a benign, thriving gun culture, it is certain that there are [a] great many persons who do have such experiences, and who do so in a context (successful, safe handling of potentially deadly tools) that is especially likely to induce and strengthen feelings of personal competence. The effect of a gun culture in promoting greater levels of individual competence and personal responsibility may be one reason for the statistically significant association between higher rates of gun ownership and higher rates of freedom from corruption, of economic freedom, and of economic success.

CONCLUSION

There are many causal mechanisms by which guns and freedom can advance or inhibit each other. The mechanisms that are most influential at a given point in time can vary widely from nation to nation. Historically and today, we can find ways in which freedom has increased guns, guns have increased freedom, freedom has reduced guns, and guns have reduced freedom. International firearms scholars, except those based in North America, have tended to focus their research only on the latter two relationships, while ignoring the first two. Some of the more enthusiastic proponents of gun prohibition have asserted that the relationship between freedom and guns is always negative.

The data in this Article reveal a more complex picture. As [a] general (but not invariable rule), countries with more guns have more economic freedom, less corruption, and more economic success. The broad international data, for any of the measures of freedom, do not support theories that more guns [mean] less freedom. The data provide reason for caution about embracing a global agenda of reducing civilian gun ownership. There may be particular countries where reductions might enhance freedom, but the data raise serious doubts about whether the gun-reducing agenda makes sense as a categorical imperative, at least if freedom ranks highly in one's hierarchy of values.

When we acknowledge that guns can have a positive and a negative relationship with freedom, then we can begin to look for more sophisticated, carefully tailored approaches to gun policy, that attempt to address the negative effects, and that are careful not to reduce the apparently significant positive effects. Such an approach offers a better possibility of enhancing freedom than does a simplistic program that only considers negative effects.

APPENDIX²³

TABLE 6: All UN member-states, ratings in all available categories

| <i>UN Members</i> | | <i>FH 2007</i> | | | <i>TI</i> | <i>Economic Ratings</i> | | | |
|------------------------|-----------|----------------|------------|---------------|-------------|-------------------------|-------------|---------------|----------------------------|
| <i>Year(s) covered</i> | | <i>2006</i> | | | <i>2006</i> | <i>2006</i> | <i>2007</i> | | <i>Firearms per capita</i> |
| <i>Country</i> | <i>PR</i> | <i>CL</i> | <i>AVE</i> | <i>Rating</i> | <i>CI</i> | <i>PPP</i> | <i>EI</i> | <i>Rating</i> | |
| Afghanistan | 5 | 5 | 5 | PF | | | | | |
| Albania | 3 | 3 | 3 | PF | 2.6 | 127 | 61.4 | ModF | 0.160 |
| Algeria | 6 | 5 | 6 | NF | | 112 | 52.2 | MU | |
| Andorra | 1 | 1 | 1 | F | | | | | |
| Angola | 6 | 5 | 6 | NF | 2.2 | 166 | 43.5 | R | 0.205 |
| Antigua and Barbuda | 2 | 2 | 2 | F | | 72 | | | |
| Argentina | 2 | 2 | 2 | F | 2.9 | 64 | 57.5 | MU | 0.127 |
| Armenia | 5 | 4 | 5 | PF | 2.9 | 126 | 69.4 | ModF | |
| Australia | 1 | 1 | 1 | F | 8.7 | 24 | 82.7 | F | 0.155 |
| Austria | 1 | 1 | 1 | F | 8.6 | 15 | 71.3 | MF | 0.170 |
| Azerbaijan | 6 | 5 | 6 | NF | 2.4 | 124 | 55.4 | MU | |
| Bahamas | 1 | 1 | 1 | F | | | 71.4 | MF | |
| Bahrain | 5 | 5 | 5 | PF | 5.7 | 50 | 68.4 | ModF | |
| Bangladesh | 4 | 4 | 4 | PF | 2.0 | 167 | 47.8 | R | |
| Barbados | 1 | 1 | 1 | F | 6.7 | | 70.5 | MF | |
| Belarus | 7 | 6 | 7 | NF | 2.1 | 90 | 47.4 | R | |
| Belgium | 1 | 1 | 1 | F | 7.3 | 20 | 74.5 | MF | 0.160 |
| Belize | 1 | 2 | 2 | F | 3.5 | 113 | 63.7 | ModF | |
| Benin | 2 | 2 | 2 | F | 2.5 | 191 | 54.8 | MU | |
| Bhutan | 6 | 5 | 6 | NF | 6.0 | | | | |
| Bolivia | 3 | 3 | 3 | PF | 2.7 | 153 | 55.0 | MU | 0.022 |
| Bosnia-Herzegovina | 3 | 3 | 3 | PF | 2.9 | | 54.7 | MU | |
| Botswana | 2 | 2 | 2 | F | 5.6 | 75 | 68.4 | ModF | |
| Brazil | 2 | 2 | 2 | F | 3.3 | 91 | 60.9 | ModF | 0.088 |
| Brunei Darussalam | 6 | 5 | 6 | NF | | | | | |
| Bulgaria | 1 | 2 | 2 | F | 4.0 | 85 | 62.2 | ModF | |
| Burkina Faso | 5 | 3 | 4 | PF | 3.2 | 184 | 55.0 | MU | |
| Burundi | 5 | 5 | 5 | PF | 2.4 | 209 | 46.8 | R | |
| Cambodia | 6 | 5 | 6 | NF | 2.1 | 152 | 56.5 | MU | |

23. [In the following tables, the column headings and ratings have the following meanings:
 PR—Political Rights (lower is better)
 CL—Civil Liberties (lower is better)
 AVE—Average of PR and CL (lower is better)
 CI—Corruption Index (higher is better)
 PPP—Purchasing Power Parity (lower is better)
 EI—Economic freedom (higher is better)
 F—Free
 PF—Partly Free
 NF—Not Free
 MF, ModF—Moderately Free
 MU, ModU—Moderately Unfree
 R—Repressed
 — Eds.]

| <i>UN Members</i> | | <i>FH 2007</i> | | | <i>TI</i> | <i>Economic Ratings</i> | | | <i>Firearms per capita</i> |
|------------------------|-----------|----------------|------------|---------------|-------------|-------------------------|-------------|---------------|--------------------------------|
| <i>Year(s) covered</i> | | <i>2006</i> | | | <i>2006</i> | <i>2006</i> | <i>2007</i> | | |
| <i>Country</i> | <i>PR</i> | <i>CL</i> | <i>AVE</i> | <i>Rating</i> | <i>CI</i> | <i>PPP</i> | <i>EI</i> | <i>Rating</i> | |
| Cameroon | 6 | 6 | 6 | NF | 2.3 | 165 | 54.4 | MU | |
| Canada | 1 | 1 | 1 | F | 8.5 | 19 | 78.7 | MF | 0.315 |
| Cape Verde | 1 | 1 | 1 | F | | 122 | 58.4 | MU | |
| Central Afr. Rep. | 5 | 4 | 5 | PF | 2.4 | 186 | 50.3 | MU | |
| Chad | 6 | 5 | 6 | NF | 2.0 | 188 | 46.4 | R | |
| Chile | 1 | 1 | 1 | F | 7.3 | 81 | 78.3 | MF | 0.108 |
| China | 7 | 6 | 7 | NF | 3.3 | 102 | 54.0 | MU | 0.031 |
| Colombia | 3 | 3 | 3 | PF | 3.9 | 105 | 60.5 | ModF | 0.073 |
| Comoros | 3 | 4 | 4 | PF | | 173 | | | |
| Congo (D.R.) | 5 | 6 | 6 | NF | 2.0 | 207 | | | |
| Congo (Rep.) | 6 | 5 | 6 | NF | 2.2 | 197 | 43.0 | R | |
| Costa Rica | 1 | 1 | 1 | F | 4.1 | 83 | 65.1 | ModF | |
| Cote d'Ivoire | 6 | 6 | 6 | NF | 2.1 | 179 | 55.5 | MU | |
| Croatia | 2 | 2 | 2 | F | 3.4 | 70 | 55.3 | MU | 0.115 |
| Cuba | 7 | 7 | 7 | NF | 3.5 | | 29.7 | R | |
| Cyprus | 1 | 1 | 1 | F | 5.6 | 45 | 73.1 | MF | |
| Czech Republic | 1 | 1 | 1 | F | 4.8 | 48 | 69.7 | ModF | 0.050 |
| Denmark | 1 | 1 | 1 | F | 9.5 | 9 | 77.6 | MF | 0.180 |
| Djibouti | 5 | 5 | 5 | PF | | 160 | 52.6 | MU | |
| Dominica | 1 | 1 | 1 | F | 4.5 | 114 | | | |
| Dominican Republic | 2 | 2 | 2 | F | 2.8 | 95 | 56.7 | MU | |
| Ecuador | 3 | 3 | 3 | PF | 2.3 | 138 | 55.3 | MU | 0.027 |
| Egypt | 7 | 6 | 7 | NF | 3.3 | 136 | 53.2 | MU | |
| El Salvador | 2 | 3 | 3 | F | 4.0 | 129 | 70.3 | MF | |
| Equatorial Guinea | 7 | 6 | 7 | NF | 2.1 | 84 | 53.2 | MU | |
| Eritrea | 7 | 6 | 7 | NF | 2.9 | 194 | | | |
| Estonia | 1 | 1 | 1 | F | 6.7 | 57 | 78.1 | MF | 0.030 |
| Ethiopia | 5 | 5 | 5 | PF | 2.4 | 190 | 54.4 | MU | |
| Fiji | 6 | 4 | 5 | PF | | 119 | 59.8 | MU | |
| Finland | 1 | 1 | 1 | F | 9.6 | 17 | 76.5 | MF | 0.550 |
| France | 1 | 1 | 1 | F | 7.4 | 23 | 66.1 | ModF | 0.320 |
| Gabon | 6 | 4 | 5 | PF | 3.0 | 130 | 53.0 | MU | |
| Gambia (The) | 4 | 4 | 4 | PF | 2.5 | 176 | 57.6 | MU | |
| Georgia | 3 | 3 | 3 | PF | 2.8 | 147 | 68.7 | ModF | |
| Germany | 1 | 1 | 1 | F | 8.0 | 28 | 73.5 | MF | 0.300 |
| Ghana | 1 | 2 | 2 | F | 3.3 | 157 | 58.1 | MU | |
| Greece | 1 | 2 | 2 | F | 4.4 | 42 | 57.6 | MU | 0.110 |
| Grenada | 1 | 2 | 2 | F | 3.5 | 99 | | | |
| Guatemala | 3 | 4 | 4 | PF | 2.6 | 135 | 61.2 | ModF | |
| Guinea | 6 | 5 | 6 | NF | 1.9 | 163 | 55.1 | MU | |
| Guinea-Bissau | 4 | 4 | 4 | PF | | 203 | 45.7 | R | |
| Guyana | 2 | 3 | 3 | F | 2.5 | 136 | 58.2 | MU | |
| Haiti | 4 | 5 | 5 | PF | 1.8 | 180 | 52.2 | MU | |
| Honduras | 3 | 3 | 3 | PF | 2.5 | 148 | 60.3 | ModF | |
| Hungary | 1 | 1 | 1 | F | 5.2 | 56 | 66.2 | ModF | 0.020 |
| Iceland | 1 | 1 | 1 | F | 9.6 | 10 | 77.1 | MF | |

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| <i>UN Members</i> | | <i>FH 2007</i> | | | <i>TI</i> | | <i>Economic Ratings</i> | | | <i>Firearms per capita</i> |
|------------------------|-----------|----------------|------------|---------------|-------------|-------------|-------------------------|---------------|-------|----------------------------|
| <i>Year(s) covered</i> | | <i>2006</i> | | | <i>2006</i> | <i>2006</i> | <i>2007</i> | | | |
| <i>Country</i> | <i>PR</i> | <i>CL</i> | <i>AVE</i> | <i>Rating</i> | <i>CI</i> | <i>PPP</i> | <i>EI</i> | <i>Rating</i> | | |
| India | 2 | 3 | 3 | F | 3.3 | 145 | 55.6 | MU | 0.043 | |
| Indonesia | 2 | 3 | 3 | F | 2.4 | 143 | 55.1 | MU | | |
| Iran | 6 | 6 | 6 | NF | 2.7 | 94 | 43.1 | R | 0.053 | |
| Iraq | 6 | 6 | 6 | NF | 1.9 | | | | 0.390 | |
| Ireland | 1 | 1 | 1 | F | 7.4 | 14 | 81.3 | F | | |
| Israel | 1 | 2 | 2 | F | 5.9 | 37 | 68.4 | ModF | 0.081 | |
| Italy | 1 | 1 | 1 | F | 4.9 | 31 | 63.4 | ModF | 0.432 | |
| Jamaica | 2 | 3 | 3 | F | 3.7 | 141 | 66.1 | ModF | | |
| Japan | 1 | 2 | 2 | F | 7.6 | 21 | 73.6 | MF | 0.003 | |
| Jordan | 5 | 4 | 5 | PF | 5.3 | 120 | 64.0 | ModF | 0.087 | |
| Kazakhstan | 6 | 5 | 6 | NF | 2.6 | 101 | 60.4 | ModF | | |
| Kenya | 3 | 3 | 3 | PF | 2.2 | 185 | 59.4 | MU | | |
| Kiribati | 1 | 1 | 1 | F | | 89 | | | | |
| Korea (North) | 7 | 7 | 7 | NF | | | 3.0 | R | | |
| Korea (South) | 1 | 2 | 2 | F | 5.1 | 44 | 68.6 | ModF | | |
| Kuwait | 4 | 5 | 5 | PF | 4.8 | 30 | 63.7 | ModF | | |
| Kyrgyzstan | 5 | 4 | 5 | PF | 2.2 | 175 | 59.9 | MU | | |
| Lao P. D.R. | 7 | 6 | 7 | NF | 2.6 | 172 | 49.1 | R | | |
| Latvia | 1 | 1 | 1 | F | 4.7 | 65 | 68.2 | ModF | | |
| Lebanon | 4 | 4 | 4 | PF | 3.6 | 128 | 60.3 | ModF | 0.139 | |
| Lesotho | 2 | 3 | 3 | F | 3.2 | 139 | 54.1 | MU | | |
| Liberia | 3 | 4 | 4 | PF | | | | | | |
| Libya | 7 | 7 | 7 | NF | 2.7 | | 34.5 | R | | |
| Liechtenstein | 1 | 1 | 1 | F | | 3 | | | | |
| Lithuania | 1 | 1 | 1 | F | 4.8 | 67 | 72.0 | MF | | |
| Luxembourg | 1 | 1 | 1 | F | 8.6 | 1 | 79.3 | MF | | |
| Macedonia | 3 | 3 | 3 | PF | 2.7 | 106 | 60.8 | ModF | 0.160 | |
| Madagascar | 3 | 3 | 3 | PF | 3.1 | 198 | 61.4 | ModF | | |
| Malawi | 4 | 3 | 4 | PF | 2.7 | 207 | 55.5 | MU | | |
| Malaysia | 4 | 4 | 4 | PF | 5.0 | 80 | 65.8 | ModF | | |
| Maldives | 6 | 5 | 6 | NF | | | | | | |
| Mali | 2 | 2 | 2 | F | 2.8 | 193 | 53.7 | MU | | |
| Malta | 1 | 1 | 1 | F | 6.4 | 54 | 67.8 | ModF | 0.130 | |
| Marshall Islands | 1 | 1 | 1 | F | | | | | | |
| Mauritania | 5 | 4 | 5 | PF | 3.1 | 158 | 53.2 | MU | | |
| Mauritius | 1 | 2 | 2 | F | 5.1 | 71 | 69.0 | ModF | | |
| Mexico | 2 | 2 | 2 | F | 3.3 | 79 | 65.8 | ModF | 0.150 | |
| Micronesia | 1 | 1 | 1 | F | | 98 | | | | |
| Moldova | 3 | 4 | 4 | PF | 3.2 | 154 | 59.5 | MU | 0.010 | |
| Monaco | 2 | 1 | 2 | F | | | | | | |
| Mongolia | 2 | 2 | 2 | F | 2.8 | 168 | 60.1 | ModF | | |
| Montenegro | 3 | 3 | 3 | PF | | | | | | |
| Morocco | 5 | 4 | 5 | PF | 3.2 | 132 | 57.4 | MU | 0.050 | |
| Mozambique | 3 | 4 | 4 | PF | 2.8 | 189 | 56.6 | MU | | |
| Myanmar (Burma) | 7 | 7 | 7 | NF | 1.9 | | 40.1 | R | | |
| Namibia | 2 | 2 | 2 | F | 4.1 | 97 | 63.8 | ModF | | |
| Nauru | 1 | 1 | 1 | F | | | | | | |
| Nepal | 5 | 4 | 5 | PF | 2.5 | 178 | 54.0 | MU | | |

| <i>UN Members</i> | | <i>FH 2007</i> | | | <i>TI</i> | <i>Economic Ratings</i> | | | |
|----------------------------|-----------|----------------|------------|---------------|-------------|-------------------------|-------------|---------------|----------------------------|
| <i>Year(s) covered</i> | | <i>2006</i> | | | <i>2006</i> | <i>2006</i> | <i>2007</i> | | <i>Firearms per capita</i> |
| <i>Country</i> | <i>PR</i> | <i>CL</i> | <i>AVE</i> | <i>Rating</i> | <i>CI</i> | <i>PPP</i> | <i>EI</i> | <i>Rating</i> | |
| Netherlands | 1 | 1 | 1 | F | 8.7 | 12 | 77.1 | MF | 0.020 |
| New Zealand | 1 | 1 | 1 | F | 9.6 | 36 | 81.6 | F | 0.250 |
| Nicaragua | 3 | 3 | 3 | PF | 2.6 | 142 | 62.7 | ModF | |
| Niger | 3 | 3 | 3 | PF | 2.3 | 203 | 53.5 | MU | |
| Nigeria | 4 | 4 | 4 | PF | 2.2 | 195 | 52.6 | MU | |
| Norway | 1 | 1 | 1 | F | 8.8 | 5 | 70.1 | MF | 0.360 |
| Oman | 6 | 5 | 6 | NF | 5.4 | 63 | 63.9 | ModF | |
| Pakistan | 6 | 5 | 6 | NF | 2.2 | 161 | 58.2 | MU | 0.120 |
| Palau | 1 | 1 | 1 | F | | | | R | |
| Panama | 1 | 2 | 2 | F | 3.1 | 103 | 65.9 | ModF | |
| Papua New Guinea | 3 | 3 | 3 | PF | 2.4 | 164 | | | |
| Paraguay | 3 | 3 | 3 | PF | 2.6 | 132 | 56.8 | MU | 0.144 |
| Peru | 2 | 3 | 3 | F | 3.3 | 121 | 62.1 | ModF | 0.028 |
| Philippines | 3 | 3 | 3 | PF | 2.5 | 122 | 57.4 | MU | 0.048 |
| Poland | 1 | 1 | 1 | F | 3.7 | 68 | 58.8 | MU | 0.015 |
| Portugal | 1 | 1 | 1 | F | 6.6 | 49 | 66.7 | ModF | |
| Qatar | 6 | 5 | 6 | NF | 6.0 | 16 | 60.7 | ModF | |
| Romania | 2 | 2 | 2 | F | 3.1 | 86 | 61.3 | ModF | 0.003 |
| Russian Federation | 6 | 5 | 6 | NF | 2.5 | 78 | 54.0 | MU | 0.090 |
| Rwanda | 6 | 5 | 6 | NF | 2.5 | 187 | 52.1 | MU | |
| Saint Kitts and Nevis | 1 | 1 | 1 | F | | 74 | | | |
| Saint Lucia | 1 | 1 | 1 | F | | 111 | | | |
| Saint Vincent & Grenadines | 2 | 1 | 2 | F | | 110 | | | |
| Samoa | 2 | 2 | 2 | F | | 116 | | | |
| San Marino | 1 | 1 | 1 | F | | 11 | | | |
| Sao Tome & Principe | 2 | 2 | 2 | F | | | | | |
| Saudi Arabia | 7 | 6 | 7 | NF | 3.3 | 58 | 59.1 | MU | 0.263 |
| Senegal | 2 | 3 | 3 | F | 3.3 | 177 | 58.8 | MU | |
| Serbia | 3 | 2 | 3 | F | 3.0 | | | | 0.375 |
| Seychelles | 3 | 3 | 3 | PF | 3.6 | 60 | | | |
| Sierra Leone | 4 | 3 | 4 | PF | 2.2 | 200 | 48.4 | R | |
| Singapore | 5 | 4 | 5 | PF | 9.4 | 26 | 85.7 | F | |
| Slovakia | 1 | 1 | 1 | F | 4.7 | 59 | 68.4 | ModF | 0.030 |
| Slovenia | 1 | 1 | 1 | F | 6.4 | 43 | 63.6 | ModF | 0.050 |
| Solomon Islands | 4 | 3 | 4 | PF | | 170 | | | |
| Somalia | 7 | 7 | 7 | NF | | | | | |
| South Africa | 2 | 2 | 2 | F | 4.6 | 77 | 64.1 | ModF | 0.132 |
| Spain | 1 | 1 | 1 | F | 6.8 | 33 | 70.9 | MF | 0.110 |
| Sri Lanka | 4 | 4 | 4 | PF | 3.1 | 134 | 59.3 | MU | |
| Sudan | 7 | 6 | 7 | NF | 2.0 | 171 | | | |
| Suriname | 2 | 2 | 2 | F | 3.0 | 96 | 52.6 | MU | |
| Swaziland | 7 | 5 | 6 | NF | 2.5 | 131 | 61.6 | ModF | |
| Sweden | 1 | 1 | 1 | F | 9.2 | 18 | 72.6 | MF | 0.315 |
| Switzerland | 1 | 1 | 1 | F | 9.1 | 7 | 79.1 | MF | 0.460 |

| <i>UN Members</i> | <i>FH 2007</i> | | | <i>TI</i> | <i>Economic Ratings</i> | | | <i>Firearms per capita</i> | |
|--------------------------------|----------------|-----------|------------|---------------|-------------------------|-------------|-----------|----------------------------|-------|
| <i>Year(s) covered</i> | <i>2006</i> | | | <i>2006</i> | <i>2006</i> | <i>2007</i> | | | |
| <i>Country</i> | <i>PR</i> | <i>CL</i> | <i>AVE</i> | <i>Rating</i> | <i>CI</i> | <i>PPP</i> | <i>EI</i> | <i>Rating</i> | |
| Syria | 7 | 7 | 7 | NF | 2.9 | 144 | 48.2 | R | |
| Tajikistan | 6 | 5 | 6 | NF | 2.2 | 183 | 56.9 | MU | |
| Tanzania | 4 | 3 | 4 | PF | 2.9 | 205 | 56.4 | MU | |
| Thailand | 7 | 4 | 6 | NF | 3.6 | 87 | 65.6 | ModF | 0.161 |
| Timor-Leste (East Timor) | 3 | 4 | 4 | PF | 2.6 | | | | |
| Togo | 6 | 5 | 6 | NF | 2.4 | 181 | 49.8 | R | |
| Tonga | 5 | 2 | 4 | PF | | 92 | | | |
| Trinidad and Tobago | 2 | 2 | 2 | F | 3.2 | 62 | 71.4 | MF | |
| Tunisia | 6 | 5 | 6 | NF | 4.6 | 93 | 61.0 | ModF | |
| Turkey | 3 | 3 | 3 | PF | 3.8 | 88 | 59.3 | MU | 0.130 |
| Turkmenistan | 7 | 7 | 7 | NF | 2.2 | | 42.5 | R | |
| Tuvalu | 1 | 1 | 1 | F | | | | | |
| Uganda | 5 | 4 | 5 | PF | 2.7 | 181 | 63.4 | ModF | |
| Ukraine | 3 | 2 | 3 | F | 2.8 | 107 | 53.3 | MU | 0.090 |
| United Arab Emirates | 6 | 5 | 6 | NF | 6.2 | 35 | 60.4 | ModF | |
| United Kingdom | 1 | 1 | 1 | F | 8.6 | 13 | 81.6 | F | 0.056 |
| United States | 1 | 1 | 1 | F | 7.3 | 4 | 82.0 | F | 0.900 |
| Uruguay | 1 | 1 | 1 | F | 6.4 | 82 | 69.3 | ModF | 0.368 |
| Uzbekistan | 7 | 7 | 7 | NF | 2.1 | 169 | 52.6 | MU | |
| Vanuatu | 2 | 2 | 2 | F | | 151 | | | |
| Venezuela | 4 | 4 | 4 | PF | 2.3 | 108 | 47.7 | R | 0.140 |
| Vietnam | 7 | 5 | 6 | NF | 2.6 | 150 | 50.0 | MU | |
| Yemen | 5 | 5 | 5 | PF | 2.6 | 199 | 53.8 | MU | 0.610 |
| Zambia | 4 | 4 | 4 | PF | 2.6 | 196 | 57.9 | MU | |
| Zimbabwe | 7 | 6 | 7 | NF | 2.4 | 173 | 35.8 | R | |

TABLE 7: All ratings for countries for which there are per capita firearms data

| <i>Ranking by firearms per capita</i> | <i>FH 2007</i> | | | <i>TI</i> | <i>Economic Ratings</i> | | | <i>Firearms per capita</i> | |
|-----------------------------------------------|----------------|-----------|------------|---------------|-------------------------|-------------|-----------|----------------------------|-------|
| <i>Country</i> | <i>2006</i> | | | <i>2006</i> | <i>2006</i> | <i>2007</i> | | | |
| <i>Country</i> | <i>PR</i> | <i>CL</i> | <i>AVE</i> | <i>Rating</i> | <i>CI</i> | <i>PPP</i> | <i>EI</i> | <i>Rating</i> | |
| Romania | 2 | 2 | 2 | F | 3.1 | 86 | 61.3 | ModF | 0.003 |
| Japan | 1 | 2 | 1.5 | F | 7.6 | 21 | 73.6 | MF | 0.003 |
| Moldova | 3 | 4 | 3.5 | PF | 3.2 | 154 | 59.5 | MU | 0.010 |
| Poland | 1 | 1 | 1 | F | 3.7 | 68 | 58.8 | MU | 0.015 |
| Hungary | 1 | 1 | 1 | F | 5.2 | 56 | 66.2 | ModF | 0.020 |
| Netherlands | 1 | 1 | 1 | F | 8.7 | 12 | 77.1 | MF | 0.020 |
| Bolivia | 3 | 3 | 3 | PF | 2.7 | 153 | 55.0 | MU | 0.022 |
| Ecuador | 3 | 3 | 3 | PF | 2.3 | 138 | 55.3 | MU | 0.027 |
| Peru | 2 | 3 | 2.5 | F | 3.3 | 121 | 62.1 | ModF | 0.028 |
| Estonia | 1 | 1 | 1 | F | 6.7 | 57 | 78.1 | MF | 0.030 |
| Slovakia | 1 | 1 | 1 | F | 4.7 | 59 | 68.4 | ModF | 0.030 |

| Ranking by firearms per capita | FH 2007 | | | | TI | Economic Ratings | | | Firearms per capita |
|--------------------------------------|---------|----|-----|--------|------|------------------|------|--------|------------------------|
| | 2006 | | | | 2006 | 2006 | 2007 | | |
| | PR | CL | AVE | Rating | CI | PPP | EI | Rating | |
| China | 7 | 6 | 6.5 | NF | 3.3 | 102 | 54.0 | MU | 0.031 |
| India | 2 | 3 | 2.5 | F | 3.3 | 145 | 55.6 | MU | 0.043 |
| Philippines | 3 | 3 | 3 | PF | 2.5 | 122 | 57.4 | MU | 0.048 |
| Czech Republic | 1 | 1 | 1 | F | 4.8 | 48 | 69.7 | ModF | 0.050 |
| Morocco | 5 | 4 | 4.5 | PF | 3.2 | 132 | 57.4 | MU | 0.050 |
| Slovenia | 1 | 1 | 1 | F | 6.4 | 43 | 63.6 | ModF | 0.050 |
| Iran | 6 | 6 | 6 | NF | 2.7 | 94 | 43.1 | R | 0.053 |
| United Kingdom | 1 | 1 | 1 | F | 8.6 | 13 | 81.6 | F | 0.056 |
| Colombia | 3 | 3 | 3 | PF | 3.9 | 105 | 60.5 | ModF | 0.073 |
| Israel | 1 | 2 | 1.5 | F | 5.9 | 37 | 68.4 | ModF | 0.081 |
| Jordan | 5 | 4 | 4.5 | PF | 5.3 | 120 | 64.0 | ModF | 0.087 |
| Brazil | 2 | 2 | 2 | F | 3.3 | 91 | 60.9 | ModF | 0.088 |
| Russian Fed. | 6 | 5 | 5.5 | NF | 2.5 | 78 | 54.0 | MU | 0.090 |
| Ukraine | 3 | 2 | 2.5 | F | 2.8 | 107 | 53.3 | MU | 0.090 |
| Chile | 1 | 1 | 1 | F | 7.3 | 81 | 78.3 | MF | 0.108 |
| Greece | 1 | 2 | 1.5 | F | 4.4 | 42 | 57.6 | MU | 0.110 |
| Spain | 1 | 1 | 1 | F | 6.8 | 33 | 70.9 | MF | 0.110 |
| Croatia | 2 | 2 | 2 | F | 3.4 | 70 | 55.3 | MU | 0.115 |
| Pakistan | 6 | 5 | 5.5 | NF | 2.2 | 161 | 58.2 | MU | 0.120 |
| Argentina | 2 | 2 | 2 | F | 2.9 | 64 | 57.5 | MU | 0.127 |
| Malta | 1 | 1 | 1 | F | 6.4 | 54 | 67.8 | ModF | 0.130 |
| Turkey | 3 | 3 | 3 | PF | 3.8 | 88 | 59.3 | MU | 0.130 |
| South Africa | 2 | 2 | 2 | F | 4.6 | 77 | 64.1 | ModF | 0.132 |
| Lebanon | 4 | 4 | 4 | PF | 3.6 | 128 | 60.3 | ModF | 0.139 |
| Venezuela | 4 | 4 | 4 | PF | 2.3 | 108 | 47.7 | R | 0.140 |
| Paraguay | 3 | 3 | 3 | PF | 2.6 | 132 | 56.8 | MU | 0.144 |
| Mexico | 2 | 3 | 2.5 | F | 3.3 | 79 | 65.8 | ModF | 0.150 |
| Australia | 1 | 1 | 1 | F | 8.7 | 24 | 82.7 | F | 0.155 |
| Albania | 3 | 3 | 3 | PF | 2.6 | 127 | 61.4 | ModF | 0.160 |
| Belgium | 1 | 1 | 1 | F | 7.3 | 20 | 74.5 | MF | 0.160 |
| Macedonia | 3 | 3 | 3 | PF | 2.7 | 106 | 60.8 | ModF | 0.160 |
| Thailand | 7 | 4 | 5.5 | NF | 3.6 | 87 | 65.6 | ModF | 0.161 |
| Austria | 1 | 1 | 1 | F | 8.6 | 15 | 71.3 | MF | 0.170 |
| Denmark | 1 | 1 | 1 | F | 9.5 | 9 | 77.6 | MF | 0.180 |
| Angola | 6 | 5 | 5.5 | NF | 2.2 | 166 | 43.5 | R | 0.205 |
| New Zealand | 1 | 1 | 1 | F | 9.6 | 36 | 81.6 | F | 0.250 |
| Saudi Arabia | 7 | 6 | 6.5 | NF | 3.3 | 58 | 59.1 | MU | 0.263 |
| Germany | 1 | 1 | 1 | F | 8.0 | 28 | 73.5 | MF | 0.300 |
| Canada | 1 | 1 | 1 | F | 8.5 | 19 | 78.7 | MF | 0.315 |
| Sweden | 1 | 1 | 1 | F | 9.2 | 18 | 72.6 | MF | 0.315 |
| France | 1 | 1 | 1 | F | 7.4 | 23 | 66.1 | ModF | 0.320 |
| Norway | 1 | 1 | 1 | F | 8.8 | 5 | 70.1 | MF | 0.360 |
| Uruguay | 1 | 1 | 1 | F | 6.4 | 82 | 69.3 | ModF | 0.368 |
| Italy | 1 | 1 | 1 | F | 4.9 | 31 | 63.4 | ModF | 0.432 |
| Switzerland | 1 | 1 | 1 | F | 9.1 | 7 | 79.1 | MF | 0.460 |
| Finland | 1 | 1 | 1 | F | 9.6 | 17 | 76.5 | MF | 0.550 |
| Yemen | 5 | 5 | 5 | PF | 2.6 | 199 | 53.8 | MU | 0.610 |
| United States | 1 | 1 | 1 | F | 7.3 | 4 | 82.0 | F | 0.900 |

[Firearms per capita were taken based on the following annual editions of the Small Arms Survey:
 2007 Table 2.3, page 47 & Table 2.9, page 59: China, India, Philippines, Morocco, Iran, U.K., Colombia, Brazil, Russian Federation, Ukraine, Spain, Pakistan, Argentina, Turkey, South Africa, Australia, Thailand, Angola, Saudi Arabia, Germany, Canada, Sweden, France, Italy, Switzerland, Finland, Yemen, United States
 2005 Table 3.3, page 78: Japan
 2005 Table 3.9, page 91: Israel, Jordan, Lebanon
 2004 Table 2.3, page 51: Bolivia, Ecuador, Peru, Chile, Venezuela, Paraguay, Mexico, Uruguay
 2004 Table 2.3, page 45: New Zealand
 2003 Tables 2.2 & 2.3, pp. 64-65: Romania, Moldova, Poland, Hungary, Netherlands, Estonia, Slovakia, Czech Republic, Slovenia, Croatia, Malta, Albania, Belgium, Macedonia, Austria, Denmark, Norway.]

TABLE 8: Relationship between firearms, corruption, purchasing power, and economic freedom

| <i>Dependent Variable</i> | <i>Firearms Coefficient</i> | <i>T-Ratio</i> |
|---------------------------|-----------------------------|----------------|
| Corruption | 4.362** | 2.42 |
| PPP | 81.662** | 2.18 |
| Economic Freedom | 18.421** | 2.63 |
| <i>Dropping the US:</i> | | |
| Corruption | 4.950** | 2.26 |
| PPP | 74.986 | 1.62 |
| Economic Freedom | 15.903* | 1.76 |

Notes: The number of observations is 59. PPP is rescaled so that higher purchasing power is reflected by higher values of PPP. ** indicates significant at the .05 level, two-tailed. * indicates significant at the .10 level, two-tailed.²⁴

NOTES & QUESTIONS

1. *Correlation or causation.* Kopel et al. identify significant correlations between gun ownership and economic freedom, purchasing power, and lower levels of government corruption. They also propose causal arguments that might explain the correlations; that is, ways in which gun ownership might directly or indirectly generate the three social goods with which they find it correlated. Another possibility is that gun ownership is *correlated* with these social goods but does not *cause* them; rather, the same things that tend to create economic freedom, clean government, etc., also tend to facilitate higher rates of gun ownership. Which kind of explanation do you think is more

24. [A two-tailed test looks at statistical significance in both directions. Were changes in one variable (e.g., guns per capita) correlated with positive or negative changes in another variable (e.g., the homicide rate)? So the two-tailed test would examine whether more guns led to a statistically significant increase *or* a statistically significant decrease in the homicide rate. A one-tailed test looks for an effect in only one direction. For example, a one-tailed test might examine whether more guns were correlated with a statistically significant increase in the homicide rate, but would not consider whether more guns were correlated with less homicide. —Eds.]

likely? Are you persuaded by Kopel et al.'s causal arguments? If so, which ones? In the end, what causes the different levels of freedom enjoyed by different nations?

2. Cross-cultural comparisons like Kopel et al.'s are illuminating, but on close examination also raise new questions. Comparing overall rates of gun ownership between high and low-freedom countries tempts a monolithic view of gun ownership in each country. On the other hand, we know from online Chapter 12 that, in the United States, rates of gun ownership vary substantially by region. Reported rates of gun ownership are notably higher in the South and the West than in the Northeast. If the rate of gun ownership in other countries also varies by region, should that be incorporated into the cross-cultural comparisons? How?
3. Carrying forward Kopel et al.'s assessment, would you say that the regions of the United States with lower rates of gun ownership rank lower on the freedom scale? Do large population centers naturally require a different balance between liberty and order? If so, is it accurate to say that New York City (with a high population density and low gun density) has fewer guns because it is less free than, say, Cody, Wyoming?

EXERCISE: DEVELOPING FIREARMS POLICY

In cooperation with your classmates, and drawing on the four excerpts above, predict the likely effects (on crime, gun deaths, civic freedom, and other important variables) of some or all of the following proposals for new laws or regulations in the United States:

- A national ban of semi-automatic handguns.
- A ban of semi-automatic rifles that look like military guns.
- A ban of magazines holding more than 10 rounds of ammunition.
- A policy that limits firearms purchasers to one gun per month.
- Limiting ammunitions purchasers to 500 rounds of ammunition per month.
- A ban of *all* semi-automatic firearms.
- Universal registration of firearms.

After you have developed and debated these specific issues, try to develop a comprehensive federal firearms policy agenda, based on the lessons from other countries and the limitations that you believe constrain policy in the United States.

C. *Gun Control and Gun Rights in Selected Nations*

The remainder of this chapter examines firearms law and policy issues in several nations. Our analysis is not comprehensive; a thorough examination of any particular country would require its own chapter. For readers interested in particular countries, we provide a list of leading books and articles for further reading.

1. United Kingdom

David B. Kopel, United Kingdom — History of Gun Laws since 1900, in *3 Guns in American Society: An Encyclopedia of History, Politics, Culture, and the Law* 842 (Gregg Lee Carter ed., 2d ed. 2012) (revised for this work)

Gun laws in the United Kingdom are among the most severe in the democratic world. From having essentially no gun controls at the start of the twentieth century, the United Kingdom had moved to near prohibition by the end of the twentieth century.

In 1900, the official attitude about guns was summed up by Prime Minister Robert Gascoyne-Cecil, the Marquess of Salisbury, who said he would “laud the day when there is a rifle in every cottage in England.” Led by the Duke of Norfolk and the mayors of London and of Liverpool, a number of gentlemen formed a cooperative association that year to promote the creation of rifle clubs for working men. The Prime Minister and the rest of the aristocracy viewed the widespread ownership of rifles by the working classes as an asset to national security.

Although Great Britain entered the twentieth century with essentially no gun laws, pressure began to build for change. As revolvers were becoming less expensive and better, concern arose regarding the increase in firepower available to the public. Low-cost guns were, in some eyes, associated with hated minority groups, particularly Irish supporters of independence.

The Pistols Act of 1903 forbade pistol sales to minors and felons and dictated that sales be made only to buyers with a gun license; the license itself could be obtained at the post office, the only requirement being payment of a fee. Firearms suicides fell, but the decline was more than matched by an increase in suicide by poisons and knives. The bill defined pistols as guns having a barrel of nine inches or less, and thus pistols with nine-and-a-half inch barrels were soon popular.

The early years of the twentieth century saw an increasingly bitter series of confrontations between capital and labor throughout the English-speaking world. Tensions were especially high around the 1910 coronation of George V. After the 1911 “Siege of Sidney Street” — the culmination of a confrontation with three anarchists — Parliament voted on, but rejected new gun controls.

After “The Great War” broke out in August 1914, the British government began assuming “emergency” powers for itself. “Defense of the Realm Regulations” were enacted which required a license to buy pistols, rifles, or ammunition at retail.

When the war ended in November 1918, the government worried about what would happen when gun controls expired. A secret government committee on arms traffic warned of danger from two sources: the “savage or semi-civilized tribesmen in outlying parts of the British Empire” who might obtain surplus war arms, and “the anarchist or ‘intellectual’ malcontent of the great cities, whose weapon is the bomb and the automatic pistol.”

At a Cabinet meeting on January 17, 1919, the Chief of the Imperial General Staff raised the threat of “Red Revolution and blood and war at home and abroad.” The Minister of Transport, Sir Eric Geddes, predicted “a revolutionary outbreak in Glasgow, Liverpool or London in the early spring, when a definite attempt may be made to seize the reins of government.” “It is not inconceivable,” Geddes warned, “that a dramatic and successful coup d’etat in some large center of population might win the support of the unthinking mass of labour.” Using the Irish gun licensing system as a model,²⁵ the Cabinet made plans to disarm enemies of the state and to prepare arms for distribution “to friends of the Government.”

However, the Home Secretary presented the government’s 1920 Firearms Act to Parliament as strictly a measure “to prevent criminals and persons of that description from being able to have revolvers and to use them.” In fact, the problem of criminal, non-political misuse of firearms remained minuscule.

The Firearms Act banned CS²⁶ self-defense spray canisters and allowed Britons to possess pistols and rifles only if they could show a “good reason” for obtaining a police permit. Shotguns and airguns, which were perceived as “sporting” weapons, remained exempt from control.

Britons who had formerly enjoyed a *right* to have arms [see Chapter 2.D.2.d.] were now allowed to possess pistols and rifles only if they proved they had “good reason.” In the early years of the Firearms Act, the law was not enforced with particular stringency, except in Ireland, where revolutionary agitators were demanding independence from British rule. Within Great Britain,²⁷ a Firearms Certificate for possession of rifles or handguns was readily obtainable. Wanting to possess a firearm for self-defense was considered a “good reason.” Ordinary firearms crime in Britain — the pretext for the Firearms Act — remained minimal.

In 1934, short-barreled shotguns and fully automatic firearms were outlawed. Although no one could cite a single instance of a machine gun being misused in Britain, the government pointed to misuse of such guns in the

25. [English rule in Ireland had always been concerned with disarming the majority Catholic population. During the nineteenth century, the “Penal Laws,” which explicitly disarmed Catholics, were replaced with a facially neutral licensing system aimed at allowing only politically correct persons to possess arms, David B. Kopel, *Ireland on the Brink*, *America’s 1st Freedom* (Apr. 2011). Kopel, *supra*, note 20. — Eds.]

26. [The most common form of “tear gas” used for riot control. — Eds.]

27. [England, Wales, and Scotland. “Great Britain” does not comprise any part of Ireland. The “United Kingdom” comprised Great Britain plus Ireland (before 1923) and today comprises Great Britain plus Northern Ireland. — Eds.]

United States, and also argued that there was no need for anyone (other than the government) to have such guns.

Before the war, British authorities had refused to allow domestic manufacture of the Thompson submachine gun because it was “a gangster gun.” When the war broke out, large numbers of American-made Thompsons were shipped to Britain, where they were dubbed “tommie guns,” since “Tommy” is a nickname for a British soldier.

As World War II ended, guns that had been donated by American civilians were collected from the Home Guard and destroyed by the British government. Troop ships returning to England were searched for souvenir or captured rifles, and men caught attempting to bring firearms home were punished. Even so, large quantities of firearms slipped into Britain, where many of them remain to this day in attics and under floor boards.

In 1946 the Home Secretary²⁸ announced that self-defense would no longer be considered a good reason for being granted a Firearms Certificate.

Following the murder of three policemen with illegal handguns at Shepherd’s Bush in 1966, Home Secretary Roy Jenkins, an ardent opponent of capital punishment, diverted public enthusiasm for the death penalty by initiating shotgun control legislation. Heretofore, the gun control laws had only applied to rifles and handguns (which had a military connotation) but not to shotguns (which were seen as bird-hunting tools). A few weeks before Shepherd’s Bush, Jenkins had told Parliament that after consulting with the Chief Constables and the Home Office, he had concluded that shotgun controls were not worth the trouble.

Jenkins’ new proposals, embodied in the 1967 Criminal Justice Act, established a permissive licensing system for shotguns. To possess a shotgun, an individual needed a Shotgun Certificate. A person could only be denied a Certificate if there were evidence that his “possession of a shotgun would endanger public safety.” In contrast, a Firearms Certificate (for rifles and pistols) had always operated on the presumption that the owner had to prove need.

A Shotgun Certificate allowed unlimited acquisition of shotguns, with no registration. Firearms Certificates had to be amended every time a new rifle or pistol was acquired—if the police decided to grant permission for the new acquisition. An applicant for a Shotgun Certificate was required to supply a countersignatory, a person who would attest to the accuracy of the information in the application. During an investigation period, which might last several weeks, the police might visit the applicant’s home. In the first decades of the system, about 98 percent of all applications were granted.

The Criminal Justice Act also abolished the requirement of unanimous jury verdicts in criminal trials, and imposed various restrictions on the press and on trial procedures.

Prime Minister Edward Heath’s government considered sweeping new controls in a 1973 Green Paper,²⁹ but the proposal was rejected due to a strong

28. [A Cabinet Minister with responsibility for a wide range of domestic issues. —Eds.]

29. [A preliminary research report on government policy. A White Paper is a more formal and final statement of policy. —Eds.]

political response against it. Over the next several decades, however, almost all of the Green Paper agenda became law.

On the morning of August 19, 1987, a licensed gun owner named Michael Ryan dressed up like Rambo and shot 16 people and himself in the market town of Hungerford. Among his weapons was a Chinese self-loading rifle.³⁰

Parliament moved to restrict all types of firearms. Self-loading centerfire rifles and shotguns were confiscated. Pump-action rifles are banned as well, since it was argued that these guns could be substituted for semi-automatics.

The 1988 Firearms Act made Shotgun Certificates much more difficult to obtain, allowing denial of the Certificate if the applicant did not have “a good reason.” Police practice immediately enforced this standard by requiring applicants to prove that they did have a good reason. Wanting to retain a family heirloom was not considered a good reason. In practice, only active participation in the shooting sports, or pest control for farming would satisfy the police; the number of Shotgun Certificate holders plunged.

In addition, shotguns that can hold more than two shells at once now require a Firearms Certificate, the same as rifles and handguns. All shotguns must now be registered. Shotgun sales between private parties must be reported to the police. (Still, police permission is not required for additional acquisitions.) Buyers of shot shells must produce a Shotgun Certificate.

Home Secretary Douglas Hurd later admitted that the government prepared the provisions of the 1988 Firearms Act long before Hungerford, and had been waiting for the right moment to introduce them.

In March 1996, Thomas Hamilton, a licensed handgun owner who retained his license even though the police had investigated him seven times as a pederast and knew him to be mentally unstable, used handguns to murder 17 teachers and children at a preschool in Dunblane, Scotland.

The Tory government, headed by John Major, convened a Dunblane Enquiry Commission. The Commission advised various forms of tightening the gun laws, but did not recommend banning all handguns. Prime Minister John Major, though, insisted on a handgun ban. He allowed an exception for single-shot .22 handguns that were stored at licensed shooting ranges. The new gun laws went into effect in February 1997.

A few months later, Labour Party leader Tony Blair was swept into office in a landslide. One of his first acts was to complete the handgun ban, by removing the exemption for single-shot .22s. Since 1921, all lawfully-owned handguns in Great Britain have been registered with the government, so handgun owners had little choice but to surrender their guns, in exchange for payment according to a government schedule.

Today, the main focus of gun prohibition advocates, such as the Gun Control Network, is to bring replica guns, shotguns, and air guns under the restrictive licensing system currently applied to rifles.

The most important gun controls in the U.K., however, are not the statutes enacted by Parliament. Rather, the gun controls which have helped reduce the nation’s rate of lawful gun ownership to extremely low levels are the controls which are invented and enforced by the British police. The fact that gun owners

30. [“Self-loading” is a synonym for “semi-automatic.” —Eds.]

need to obtain a license from the police has given the police enormous opportunities to make their own gun controls.

For example, starting in 1936, the British police began adding a requirement to Firearms Certificates requiring that the guns be stored securely. As shotguns were not licensed, there was no such requirement for them. Today, British statutory law merely mandates that guns be stored in “a secure place.”

But when a person seeks to obtain or renew a gun license, in most jurisdictions the British police send a pair of inspectors to the person’s home, to inspect the form of storage. Often, a pair of expensive safes (one for the guns, one for the ammunition) is considered the only acceptable form of storage. Police standards change from time to time, regarding what kinds of safes and supplementary electronic security systems are mandated. In many districts, an acceptable safe is now one that can withstand a half-hour attack by a burglar who arrives with a full set of safe-opening tools, and who even has time to take a short rest if his first efforts to pry open the safe do not succeed. The police have no legal authority to require such home inspections, nor does the law specify that a hardened safe is the only acceptable form of storage. But if a homeowner refuses the police entry or refuses to buy the types of safe demanded by the police, the certificate application or renewal will be denied.

One effect of the heavy security costs is to reduce the ability of middle-income or poor people to legally own guns. Of course, the requirement that guns be locked in safes makes it nearly impossible for the gun to be used for home protection.

The police have invented many other conditions that they impose on gun license applicants. A certificate for rifle possession often includes “territorial conditions” specifying exactly where the person may hunt. While it is not legally necessary for shooters to have written permission to hunt on a particular piece of land, police have been stopping shooters, demanding written proof, and threatening to confiscate guns from persons who cannot produce the proof. The police also have, without legal authority, required applicants for shotguns capable of holding more than two shells to prove a special need for the gun. Without legal authority, some police have begun to phase out firearms collections by refusing new applications.

If a policeman has a personal interest in the shooting sports, that interest will generally disqualify him from being assigned to any role in the police gun licensing program. Applicants may appeal police denials of permit applications, but the courts are generally deferential to police decisions. Hearsay evidence is admissible against the applicant. An appellant does not have a right to present evidence on his own behalf.

By police estimates, the stockpile of illegal guns in the U.K. is over three million. Gun crime rates have risen steadily, and some police now call lower-class Manchester “Gunchester.” A black market supplies young criminals with Beretta sub-machine guns, Luger pistols, and many other weapons.

One of the most important differences between American and British law is in regards to self-defense. Britain’s 1967 Criminal Justice Act made it illegal to use a firearm against a violent home intruder — whereas firearms are used (usually with only a threat) against American burglars and other home invaders many thousands of times a year. In a highly-publicized case in 2000, an older man named Tony Martin, who had been repeatedly burglarized, and had received no

meaningful assistance from the police, shot a pair of career burglars who had broken into his home. The man was sentenced to life in prison, although paroled after serving part of the sentence.

Less-than-lethal defensive weapons have been outlawed. These include chemical defense sprays, electric stun devices, and martial arts gear. Knife carrying was made presumptively illegal in 1996. Before that, carrying even a pen-knife had been illegal if it were intended for use in self-defense, which legally made the knife into an “offensive weapon.”

Currently, violent and armed crime in Great Britain is at its highest level in centuries. According to a joint report of the U.S. Department of Justice and the U.K. Home Office, Crime and Justice in the United States and in England and Wales, 1981-96, the English rate of robbery was 1.4 times the U.S. rate, assault was 2.3 times the U.S. rate, and burglary was 1.7 times the U.S. rate.

“Hot” burglaries (against an occupied home) comprise only about a quarter of American burglaries, but over half of British burglaries. The *Daily Telegraph* (June 29, 2000) argues that “the main reason for a much lower burglary rate in America is householders’ propensity to shoot intruders. They do so without fear of being dragged before courts and jailed for life.”

Gun crime rates, however, remain substantially lower in the U.K. than in the United States, even though they are much higher than they were in the nineteenth century or most of the twentieth.

Following years of public pressure, the government of the U.K. in July 2008 amended the self-defense law to clarify and protect some self-defense rights for the victims of home invasions. Criminal Justice and Immigration Act, 2008, c. 4, §76(7) (U.K.). Reasonable use of the force is to be judged according to the circumstances as the defender perceived them; and must consider:

- (a) that a person acting for a legitimate purpose may not be able to weigh to a nicety the exact measure of any necessary action; and
- (b) that evidence of a person’s having only done what the person honestly and instinctively thought was necessary for a legitimate purpose constitutes strong evidence that only reasonable action was taken by that person for that purpose.

NOTES & QUESTIONS

1. “*Carrying an offensive weapon.*” Britain’s 1953 Prevention of Crime Act criminalizes the carrying of an “offensive weapon” in any public place unless the defendant can show that he had “lawful authority or excuse.” “Offensive weapon” is broadly defined to include not only “any article made or adapted for use in causing injury to the person,” but also “any article . . . intended by the person having it with him for such use.” Thus any item designed as a weapon is illegal to carry, as is any nonweapon if the person carrying it intends to use it as a weapon. Note, too, that despite its name, the statute does not distinguish between weapons carried for self-defense, and those carried for offensive use.

In contrast, many American jurisdictions criminalize carrying weapons with unlawful intent, but do not deem carrying for *self-defense* unlawful, even though defensive use often does “caus[e] injury” to another.

For example, Oklahoma prohibits “carr[ying] or wear[ing] any deadly weapons or dangerous instrument whatsoever with the intent or for the avowed purpose of *unlawfully* injuring another person. . . .” 21 Okla. Stat. 1278 (2012) (emphasis added). The Oklahoma statute adds that “[t]he mere possession of . . . a weapon or dangerous instrument, without more, . . . shall not be sufficient to establish intent as required by this section.” *Id.*

Is this approach better or worse than the British approach? Should the legality of carrying weapons (or items usable as weapons) turn on the carrier’s intent? Is this too subjective or difficult to discern? Do intent-based prohibitions on carrying open the door to invidious discrimination by the law enforcement officials that must apply them?

Similarly, can one even distinguish between “offensive” and “defensive” weapons? If so, should objective traits be used to distinguish them, or should intent play a role?

2. *Home storage.* How much control should government impose on the ways people store lawfully owned guns at home? Under *Heller* (Chapter 9), government cannot require guns in the homes to be locked up at all times, but some safe storage requirements are likely to be held constitutional. See Chapter 11.G. Which aspects, if any, of the British system of extensive government supervision of home storage do you think would make sense to adopt in your jurisdiction?
3. *Which is worse: rare lethal violence or frequent nonlethal violence?* By most measures, the United Kingdom today has a much higher rate of violent crime than the United States. See, e.g., James Slack, *The Most Violent Country in Europe: Britain Is Also Worse than South Africa and U.S.*, Daily Mail, July 2, 2009 (U.K.) (British annual violent crime rate of over 2,000 per 100,000 inhabitants is more than four times greater than United States). On the other hand, the homicide rate in the United Kingdom is lower than that in the United States; the official U.S. rate is around 4-5 per 100,000 population per year, whereas the U.K. rate is around 1-2 per 100,000 population.

The gap is smaller, however, than the official numbers suggest. The U.S. rate is based on initial reports of homicides, and includes lawful self-defense killings (about 10-15 percent of the total); the England and Wales rate is based only on final dispositions, so that an unsolved murder, or a murder which is pleaded down to a lesser offense, is not counted as a homicide. In addition, multiple murders by one murderer are counted as only a single homicide for Scottish statistics.

Even so, it would be fair to say that the actual U.K. homicide rate is lower than in the United States. Many different factors can contribute to such a difference. But it is at least plausible that a higher rate of ownership of lethal weapons among citizens will tend to make violent encounters more costly (because more lethal), but therefore also rarer. If going from a low-gun to a high-gun owning society does involve a trade-off of this kind, is it a worthwhile trade? To put it somewhat crudely, if increasing the number of lawfully owned guns means a few more murders a year, but many fewer “ordinary” assaults and muggings, is that a worthwhile trade?

4. *The slippery slope in action?* For an extended account of the rise of British gun control in the twentieth century, see Joseph E. Olson & David B. Kopel, *All the Way Down the Slippery Slope: Gun Prohibition in England and Some Lessons for Civil Liberties in America*, 22 Hamline L. Rev. 399 (1999). Professors Olson and Kopel argue that the near-elimination of the right to arms in Britain is an instructive example that “slippery slopes”—claims that allowing small increases in regulation will tend to lead to greater and greater infringements until the right is abrogated—are sometimes a realistic fear.
5. For more on the British gun debate, see the following print and Internet resources:
 - Colin Greenwood, *Firearms Control: A Study of Armed Crime and Firearms Control in England and Wales* (1971).
 - David B. Kopel, *Gun Control in Great Britain: Saving Lives or Constricting Liberty?* (1992).
 - David B. Kopel, *The Samurai, the Mountie, and the Cowboy: Should America Adopt the Gun Controls of Other Democracies?* (1992). (Chapter 3 in this Kopel book is a slightly shorter version of the material contained in the Kopel book *Gun Control in Great Britain*.)
 - Joseph Olson & David B. Kopel, *All the Way Down the Slippery Slope: Gun Prohibition in England and Some Lessons for Civil Liberties in America*, 22 Hamline L. Rev. 399 (1999).
 - Peter Squires, *Gun Culture or Gun Control: Firearms, Violence and Society* (2001).
 - Joyce Malcolm, *Guns and Violence: The English Experience* (2004).
 - [British Shooting Sports Council](http://www.bssc.org.uk/), <http://www.bssc.org.uk/>.
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2. Japan

David B. Kopel, Japan, Gun Laws, in 2 Guns in American Society: An Encyclopedia of History, Politics, Culture, and the Law 449
 (Gregg Lee Carter ed., 2d ed. 2012) (revised for this work)

Japanese law prohibits the ownership of rifles and pistols, while imposing a very strict licensing system on shotguns and air guns. The firearms law appears to be both a cause and a consequence of the relatively authoritarian nature of Japanese society. Starting in the 1990s, Japan has begun to work to impose its firearms policies on other nations.

Japanese gun law (like New Jersey gun law) starts with prohibition as the norm: “No-one shall possess a fire-arm or fire-arms or a sword or swords.” From there, some exceptions are created.

Japanese sportsmen are permitted to possess shotguns for hunting and for skeet and trap shooting, but only after submitting to a lengthy licensing procedure. Air rifles (but not air pistols) are also allowed for sporting purposes.

A prospective gun owner must first attend classes and pass a written test. Shooting range classes and a shooting test follow; 95 percent pass. After the safety exam, the applicant takes a simple “mental test” at a local hospital, to ensure that the applicant is not suffering from a readily detectable mental illness. The applicant then produces for the police a medical certificate attesting that he or she is mentally healthy and not addicted to drugs. The police investigate the applicant’s background and relatives, ensuring that both are crime-free. Membership in “aggressive” political or activist groups disqualifies an applicant. The police have unlimited discretion to deny licenses to any person for whom “there is reasonable cause to suspect may be dangerous to other persons’ lives or properties or to the public peace.”

Gun owners must store their weapons in a locker, and give the police a map of the apartment showing the location of the locker. Ammunition must be kept in a separate locked safe. The licenses also allow the holder to buy a few thousand rounds of ammunition, with each transaction being registered.

Civilians can never own handguns. Small caliber rifles were once legal, but in 1971, the Government forbade all transfers of rifles. Current rifle license holders may continue to own them, but their heirs must turn them into the police when the license-holder dies.

The severe controls on gun ownership in Japan are consistent with Japanese practices regarding other matters which are guaranteed by the Bill of Rights in America, but which are subject to extensive control in Japan. For example, Japan has no meaningful limits on police search and seizure. A person who is arrested may be held incommunicado for long periods of time, and, according to the Tokyo Bar Association, police torture of suspects is routine. Criminal trial procedures are, compared to the trials in the U.S., much more heavily tilted towards the government, and acquittals are extremely rare. Trial by jury has been abolished. Restrictions on speech and the press are much broader than in the U.S.

Guns first arrived in Japan along with the first trading ships from Portugal in 1542 or 1543. The Portuguese had landed on Tanegashima Island, outside Kyushu. One day the Portuguese trader Mendez Pinto took Totitaka, Lord of Tanegashima for a walk; the trader shot a duck. The Lord of Tanegashima made immediate arrangements to take shooting lessons, and within a month he bought both Portuguese guns, or *Tanegashima* as the Japanese soon called them.

The *Tanegashima* caught on quickly among Japan’s feuding warlords. The novelty of the guns was the main reason that the Portuguese were treated well. The Japanese rapidly improved firearms technology. They invented a device to make matchlocks³¹ fire in the rain (the Europeans never figured out how to do this), refined the matchlock trigger and spring, developed a serial firing technique, and increased the matchlock’s caliber. The Arabs, the Indians, and the Chinese had all acquired firearms long before the Japanese, but only the Japanese mastered large-scale domestic manufacture.

31. [The standard firearm of the time. The shooter would light a match, then use the match to inflame a wick, and the burning wick would ignite the gunpowder. — EDS.]

By 1560, firearms were being used effectively in large battles. In 1567, Lord Takeda Harunobu declared, “Hereafter, guns will be the most important arms.” Less than three decades after Japan saw its first gun, there were more guns in Japan than any other nation on the planet. Several Japanese feudal lords had more guns than the whole British army.

It was Lord Oda Nobunaga whose army truly mastered the new firearms technology. At Nagashino in 1575, three thousand of Nobunaga’s conscript peasants with muskets hid behind wooden posts and devastated the enemy’s cavalry charge. Feudal wars between armies of samurai knights had ravaged Japan for centuries. Nobunaga and his peasant army, equipped with matchlocks, conquered most of Japan, and helped bring the feudal wars to an end.

Guns dramatically changed the nature of war. In earlier times, after the introductions, fighters would pair off, to go at each other in single combat—a method of fighting apt to let individual heroism shine. Armored, highly trained samurai had the advantage. But with guns, the unskilled could be deployed *en masse*, and could destroy the armored knights with ease. Understandably, the noble *bushi* class thought firearms undignified.

Starting out as a groom for Lord Nobunaga, a peasant named Hidéyoshi rose through the ranks to take control of Nobunaga’s army after Nobunaga died. A brilliant strategist, Hidéyoshi finished the job that Nobunaga began, and reunified Japan’s feudal states under a strong central government. On August 29, 1588, Hidéyoshi announced “the Sword Hunt” (*taiko no katanagari*) and banned possession of swords and firearms by the non-noble classes. He decreed:

The people in the various provinces are strictly forbidden to have in their possession any swords, short swords, bows, spears, firearms or other arms. *The possession of unnecessary implements makes difficult the collection of taxes and tends to foment uprisings.* . . . Therefore the heads of provinces, official agents and deputies are ordered to collect all the weapons mentioned above and turn them over to the Government.

(emphasis added).

Although the intent of Hidéyoshi’s decree was plain, the Sword Hunt was presented to the masses under the pretext that all the swords would be melted down to supply nails and bolts for a temple containing a huge statue of the Buddha. The Western missionaries’ *Jesuit Annual Letter* reported that Hidéyoshi “is depriving the people of their arms under the pretext of devotion to religion.” Once the swords and guns were collected, Hidéyoshi had them melted into a statue of himself.

According to historian Stephen Turnbull: “Hidéyoshi’s resources were such that the edict was carried out to the letter. The growing social mobility of peasants was thus flung suddenly into reverse. . . . Hidéyoshi had deprived the peasants of their weapons. Iéyasu [the next ruler] now began to deprive them of their self respect. If a peasant offended a samurai he might be cut down on the spot by the samurai’s sword.”

The inferior status of the peasantry having been affirmed by civil disarmament, the Samurai enjoyed *kiri-sute gomen*, permission to kill and depart. Any disrespectful member of the lower class could be executed by a Samurai’s sword. Hidéyoshi forbade peasants to leave their land without their superior’s permission and required that warriors, peasants, and merchants all remain in their current post.

After Hidéyoshi died, Iéyasu founded the Tokugawa Shogunate, which would rule Japan for the next two-and-a-half centuries. Peasants were assigned to a “five-man group,” headed by landholders who were responsible for the group’s behavior. The groups arranged marriages, resolved disputes, maintained religious orthodoxy, and enforced the rules against peasants possessing firearms or swords. The weapons laws clarified and stabilized class distinctions. Samurai had swords; peasants did not.

The Japanese experience was consistent with the belief of Aristotle and Plato that deprivation of a role in the armed defense of a society would lead to deprivation of any role in governing that society. [Chapter 2.B.1.b.] Berkeley professor Mary Elizabeth Berry explains: “The mounted magistrates who rounded up everything from muskets to daggers changed men’s thoughts about themselves. Farmers had borne arms for centuries and taken part in the contests that helped fix the rights of lordship. Their military role brought political influence and obscured class boundaries. A pivotal member of his community by the warring-states era, the armed peasant symbolized opportunity. The confiscation of his weapons, far more than a ‘hardship,’ altered a condition of life.” Mary Elizabeth Berry, *Hideyoshi* (1982).

Historian Noel Perrin offers five reasons why Japan was able to renounce the gun while Europe was not, despite the fierce resistance to guns by the European aristocracy. First, the Samurai warrior nobility, who hated guns, amounted to 6-10 percent of the population, unlike in Europe, where the noble class never exceeded 1 percent. Second, island Japan was so hard to invade, and the Japanese were such formidable fighters, that swords and bows sufficed for national defense. Third, writes Perrin, swords were what the Japanese truly valued. Guns depreciated the importance of swords, so a policy of protecting swords by eliminating guns was bound to be popular, at least with the classes who carried swords. Fourth, the elimination of guns was part of a xenophobic reaction against outside influences, particularly Christianity. Finally, writes Perrin, in a society where aesthetics were prized, swords were valued because they were graceful to use in combat. Noel Perrin, *Giving Up the Gun: Japan’s Reversion to the Sword 1543-1879* (1979).

During the early twentieth century, the gun controls were slightly relaxed. Tokyo and other major ports were allowed to have five gun shops each, other prefectures, three. Revolver sales were allowed with a police permit, and registration of every transaction was required.

In the 1920s and 1930s, the military came increasingly to control civilian life. Historian Hidehiro Sonoda explains: “The army and the navy were vast organizations with a monopoly on physical violence. There was no force in Japan that could offer any resistance.” *Seventy-Seven Keys to the Civilization of Japan* (Tadao Umesai ed., 1985).

Although the Japanese devastated much of the U.S. Navy’s Pacific Fleet with the Pearl Harbor attack, seized some islands in Alaska, and conducted a few raids on the West Coast, the Japanese Imperial Navy and Army never seriously contemplated a full-scale invasion of the American mainland — in part because they believed that the American population was well-armed and was well-practiced in firearms use.

After World War II ended with Japan in ruins, the military was reviled by the Japanese people, and abolished by General MacArthur’s occupation

government. The MacArthur government also dismantled centralized national control of the police. In 1946, MacArthur's government ordered the Japanese police to begin carrying guns; finding out that this edict was still being ignored in 1948, the American occupation forces distributed revolvers to the Japanese police.

Today, the police have reverted to central national control, and many of the American-style restrictions on police power which the occupation government wrote into the new Japanese Constitution are ignored. The American-imposed policy of police armament remains in place, though.

But unlike in America, police regulations and culture do not glorify police gun ownership and use (and therefore, unlike in America, do not promote a broader gun culture by example). Japanese police carry only .38 special revolvers, not the higher-capacity 9mm handguns often toted by the American police. No officer would ever carry a second, smaller handgun as a backup, as many American police do. Policemen may not add individual touches, such as pearl handles or unusual holster, to dress up their gun. While American police are often required to carry guns while off-duty, and almost always granted the privilege if they wish (even when retired), Japanese police must always leave their guns at the station. Unlike in the United States, desk-bound police administrators, traffic police, most plainclothes detectives, and even the riot police do not carry guns.

One poster on Japanese police walls ordered: "Don't take it out of the holster, don't put your finger on the trigger, don't point it at people." Shooting at a fleeing felon is unlawful under any circumstance, whereas American police and civilians are both allowed to use deadly force to stop certain types of escaping felons. Japanese police and civilians can both be punished for any act of self-defense in which the harm caused was greater than the harm averted. In an average year, the entire Tokyo police force only fires a few shots.

The Japanese gun suicide rate is one-fiftieth of America's, but the overall suicide rate is nearly twice as high as America's. Teenage suicide is much more frequent in Japan. Japan also suffers from double or multiple suicides, *shinju*. Parents bent on suicide often take their children with them, in *oyako-shinju*.

Of the many reasons suggested by researchers for the high Japanese suicide rate, one of the most startling is weapons control. Japanese scholars Mamon Iga and Kichinosuke Tatai argue that one reason Japan has a suicide problem is that people have little sympathy for suicide victims. Iga and Tatai suggest that the lack of sympathy (and hence the lack of social will to deal with a high suicide rate) is based on Japanese feelings of insecurity and consequent lack of empathy. They trace the lack of empathy to a "dread of power." That dread is caused in part by the awareness that a person cannot count on others for help against violence or against authority. In addition, say Iga and Tatai, the dread of power stems from the people being forbidden to possess swords or firearms for self-defense. Mamon Iga & Kichinosuke Tatai, *Characteristics of Suicide and Attitudes toward Suicides in Japan*, in *Suicide in Different Cultures* 255-80 (Norman Faberow ed., 1975).

In 1999, there were 1,265 murders reported to the police — not counting cases of parents killing children, which are often classified as suicide, rather than murder. That same year, 4,237 robberies were reported. Some scholars argue that Japanese crime reporting rates are unusually low, because victims fear

retaliation from the organized criminal gangs (Yakuza) who perpetrate much of the crime. Even so, gun crime is rare, and violent crime is much lower than in the United States.

To gun prohibition advocates, Japan represents the ideal, with near-prohibitory controls, and nearly no gun crime.

Skeptics argue that Japan's low crime rates are mainly due to cultural factors. Skeptics also point out that the crime rate of Japanese-Americans (who have just as much access to guns as do other Americans) is actually lower than the crime rate of Japanese in Japan.

It is also argued that Japanese-style gun laws, whatever their efficacy, are particularly unsuited to the United States, since American ownership of guns is deeply tied to American concepts of individualism, self-protection, and freedom from oppressive government. To many in Japan, where the focus is on the group rather than the individual, the American attitude seems absurd and barbaric.

On the evening of October 17, 1992, in Baton Rouge, Louisiana, a Japanese exchange student named Yoshihiro Hattori and a teenager from his host family, Webb Haymaker, entered a carport, mistakenly thinking that the home was hosting a Halloween party. The teenagers had the wrong address. Frightened by the rapidly approaching young males, Bonnie Peairs screamed for help and her husband Rodney came running with .44 Smith & Wesson revolver. He yelled "freeze!" Haymaker retreated and tried to get Hattori to stop, but Hattori, apparently not understanding the American idiom that "freeze!" can mean "Don't move or I'll shoot," advanced towards Mr. Peairs, who pulled the trigger and shot him dead.

Rodney Peairs was acquitted of manslaughter in a criminal trial, partly because Haymaker testified that, in the dark, Hattori's camera might have looked like a gun, and that Hattori waved his arms at Peairs.

While the incident initially attracted only brief attention in the national American press, the shooting horrified Japan, where television networks devoted massive coverage to "the freeze case." In July 1993, President Clinton apologized to Hattori's parents Masaichi and Mieko. At Yoshi's funeral, the parents stated, "The thing we must really despise, more than the criminal, is the American law that permits people to own guns."

Over the next several months, 1.7 million Japanese and 150,000 Americans signed Mrs. Hattori's "Petition for Removing Guns from Households in the United States." Working with the Coalition to Stop Gun Violence, the Hattoris delivered the petitions to President Clinton personally on November 16, 1993, a few days before final Senate passage of the Brady Bill. President Clinton told the Hattoris that he believed that only police and the military should have handguns.

Mrs. Hattori tells Japanese audiences that the petitions led to the passage of the Brady Bill. Mr. and Mrs. Hattori filed a civil suit against Peairs, won \$653,000, and used part of the money to set up foundations which award money to anti-gun groups in the U.S., and which bring an American student to Japan each year, to experience gun-free life.

Spurred in part by the Hattori tragedy, in the 1990s Japan began funding gun surrender programs in South Africa, pushing the United Nations to act against private gun ownership, and supporting gun prohibition around the world.

Although the core of the gun prohibition campaign is a belief that Japan’s policy is culturally superior, another basis is the fact that, according to the Japanese National Policy Agency (NPA), handguns are smuggled into Japan from the United States, China, the Philippines, Thailand, Russia, Brazil, Peru and South Africa. The NPA reports that the main techniques are “(1) spot-welding of guns to a car imported from overseas to Japan, (2) smuggled aboard fishing boats, (3) concealment in sea or air cargo and (4) concealment in hand carrying luggage inside items such as electric appliance.”

Ironically, Japan has a large firearms manufacturing industry, geared towards the export market. Browning firearms are manufactured there, as are several other well-respected brands of shotguns.

NOTES & QUESTIONS

1. *International transmission of cultural norms.* The Hattori tragedy brought to light the sharply different attitudes toward private gun ownership in Japanese society and in most parts of America. What weight should Americans give to Japanese criticisms of America’s gun culture? More generally, should Americans view widespread criticism from other nations toward an American practice as presumptive evidence that the criticized practice is unwise? When are such cross-national (and cross-cultural) criticisms persuasive?
2. Compare the Japanese approach to eliminating privately owned rifles to the United States’ 1994 “assault weapons” ban (now expired). In 1971, the Japanese government forbade all transfers of rifles, allowing license holders to keep them but requiring heirs to turn over the guns when the licenseholder died. The U.S. “assault weapons” ban grandfathered existing guns, which remained freely transferable. In 2013, Senator Dianne Feinstein, sponsor of the 1994-2004 ban, introduced a bill for a new permanent ban, S.150, 113th Congress (2013); under an early draft of the bill (although not the bill as introduced), current owners could keep their guns if they paid a \$200 per gun tax and got local police permission. The guns could never be transferred, and upon the owner’s death, they would be confiscated. If you were designing a new ban, which approach would you favor? Why? Can you identify any constitutional problems with a law that prohibited owners from selling these guns or passing them on to heirs?
3. The United States and Japan have many cultural differences, including dramatically different experiences with firearms ownership and regulation. One consequence of this is vast differences in the number of private firearms, rate of firearms homicide, and rate of firearms crime in the two countries. Constitutional questions aside, what is the likelihood that the United States could pass and effectively implement Japanese style gun laws?
4. Would effective implementation of Japanese style firearms regulation in the United States require cultural change in the United States? If so, would you recommend a gradual process or a quick drastic change? Is that gradual process similar to the slippery slope fear that seems to drive some objections

to gun control? Is legislation sufficient to facilitate the necessary cultural change? Can you think of other areas of policy where law and culture collided in a dramatic way? Do those examples offer any lessons for the gun question? Aside from legislation, what other tools are available to push cultural change?

3. Mexico

Ernesto Villanueva & Karla Valenzuela, *Security, Firearms and Transparency: Myths and reality of the right to own and bear firearms in Mexico* (ebook excerpt)

First: The starting point that must remain clear is that the People’s prerogative of owning and possessing firearms for their self-defense and security is a fundamental human right foreseen in the 10th article of the current Constitution, and has been part of the text of our Supreme Law since its 1857 predecessor. It did not appear as an addition or constitutional reform by what is denominated the Power of Constitutional Reform or the Permanent Constituent; rather, it has been part of the initial text of both constitutions, so there is no doubt about the will of the Constitutional Power (i.e., the original, sovereign political will that is not subject to a prior Constitution). This translates into a group of fundamental legal norms that give life to the Mexican State, both in its liberal 19th century version and in its 20th century social-liberal form or its dogmatic or teleological intentions (i.e., the ends or purposes it seeks) from the Constitution to the present day.

This right has not been imposed, but self-legislated by the Constitutional Power’s own will. . . .

At the Constituent Congress of 1856-1857, after deliberations for and against the right to own and possess firearms, the proposal was approved with 67 votes in favor and 21 against in its first part and 50 votes in favor and 21 against in its second part. During the debates of the Constituent Congress of 1916-1917, the proposed Article 10 presented by the Chief of the Constitutionalist Army, Venustiano Carranza, by way of General Francisco J. Mujica was approved unanimously and without discussion. . . .

Second: The right to own and carry firearms has become perceived in a negative way possibly because of the convenience this represents to the Mexican political regime, and the conceptions it has of political stability and the freedoms of the governed.

. . . We must also dismantle the encompassing social stigma using information that will allow us to confront each of the supposed “dangers” the exercise of this constitutional right would allegedly bring. It is important to point out that these claims are not the result of empirical investigations into the subject-matter to substantiate at least a majority of these contentions/perceptions. At least, none based on data available to the public.

The process of progressive debilitation affecting the ability of the institutions charged with providing security and procuring justice to fulfill their constitutionally and legally-mandated duties has brought about a redefinition of different concepts and values within Mexican society. It is necessary to determine the proper scope and limits of the right to own and carry firearms

Day by day, not only is the number of public spaces which assure citizens the fundamental right to freedom of transit and the most-fundamental right to life increasingly constricted, but so too is the number of those private spaces that in principle demand even greater protection.

It is not, however, through the restriction of the fundamental rights of the People that public security and social confidence in our public institutions may be restored. To the contrary, an opportunity presents itself to make effective the fundamental rights consecrated in the Constitution, including, of course, the right provided by the Article 10, by reforming the secondary legislations to potentiate its normative efficacy in order to guard the legal values it protects: life and property. The right to own and carry arms is not, in principle, an end unto itself; it is a prerogative that enables the governed to defend against any potential action that places them in real, immediate or imminent danger. The underlying principle is self-evident: It is preferable to have a firearm and never need it, than it is to need a firearm and not have one. In any case, as indicated by its very name, it is the People's right, their prerogative; it is not their obligation.

Third: To enforce the right to own and carry firearms, there must be a series of reforms to the current legislation and, in particular but not exclusively, to the Federal Firearms and Explosives Law (LFAFE). . . .

. . . The following is a list of some, but not all, of the ways the secondary law goes against the nucleus of the fundamental right in question:

- a) It restricts the possibilities of gun ownership and possession to a series of firearms whose calibers and characteristic, in most cases, lack the capacity and potency to effectively stop an aggressor;
- b) It stems from the absurd supposition that the citizenship is schooled and trained in the correct use of firearms. As is well known, practically no one, save the people who are or once were part of one of the many different security forces, and the people who utilize firearms for hunting or sport, and alleged criminals, has any sort of instruction on the use of firearms. This possibility does exist in the comparative experience of other countries however. This fact, paradoxically, makes the regulatory law an obstacle for the citizenship to own and carry firearms for their defense and security;
- c) It limits the task of firearms control to the military authorities, revealing lingering notes of authoritarianism that is not present in other contemporary democracies, where these chores have been assigned to the civilian authorities, as is the case in, say, the United States.
- d) It establishes a wide margin for bureaucratic discretion in the issuance of the various permits for the ownership and possession of firearms, in addition to creating a greater waiting period and more requirements than is perceived in the compared experience with other countries.

This also represents an obstacle for the adequate exercise of the fundamental right enshrined in the 10th article of the Constitution.

- e) It creates a monopoly favoring the military authorities regarding the production and sale of firearms. These measures limit the possibilities and potential of the public to lawfully participate in this activity without providing society any legal argumentation or justification as to how they honor the right established by Article 10 of the Constitution. This is part of the legacy of authoritarianism in our country and runs contrary to international best practices; and
- f) The concept of “home” established by the Law is restrictive. . . . The penumbra of the concept does not allow us to determine if certain places such as commercial establishments or other places [are place where] the right to self-protection and self-defense may be exercised.

Fourth: One should remember that fundamental rights lack entity if they do not have normative guarantees allowing them to be exercised. . . . Such is the case with the Federal Firearms Law which, instead of protecting the rights granted by Article 10, in fact restricts them by overextending the legal powers of the secondary law by altering and modifying the sense of the law it was meant to regulate.

Fifth: In the passing of years, particularly recent years, one can perceive how the area dominated by the Rule of Law has been reduced, allowing for greater prevalence of ever-widening islands of insecurity, corruption and impunity throughout the national territory. There are fact-based analyses supporting this observation.

. . . Worse still, the recent assassinations of public servants, candidates to public office and well-known political leaders have brought to light a disquieting question: How can the Mexican State defend the security of its citizens, when it cannot defend the physical integrity of a growing number of men and women charged with enforcing the Law? It is not our position that allowing the population to exercise their right to own and carry firearms is “the” solution to the violence and generalized insecurity throughout the country. It is, however, part of a long list of pending tasks that will be necessary for the people on foot, almost the totality of the population, to be able to carry an instrument for their self-defense in the framework of the Constitution. It would be futile to recount all of the human rights, from the first to the most recent generation, if the most basic requirements for their exercise are not met: the existence of physical and spiritual life. Without a human life to enjoy them, all rights become moot. It is improbable that the immobility of the community and the government’s bet on silently waiting will be enough to recover the tranquility we have lost. . . . The expansive exercise of the right to own and carry arms must be accompanied by a process of evaluation and reformation of the educative system. Education is a vehicle for transmitting the consciousness that give people the cognitive elements allowing them to exercise the sociological notion of citizenship. The right to own and carry firearms in terms of what the regulatory law has developed is inversely proportional to its due exercise. In effect, the Mexican intellectual and technical diet regarding the use of firearms has historically been found lacking, nurtured instead by moral judgments, and deprived of the elements present in relative international best practices.

Sixth: The recovery of the normative effectuality pertaining to this right on behalf of the People implies a substantial reform or perhaps even the abrogation of the current LFAFE and the implementation of a new legal framework, derived from the best practices concluded from past experience.

... Among the many changes required we can include those relative to civic education. ...

Today, the references available to society are not sympathetic to elements drawn from empirical research ... ; elementary and middle school textbooks do not cover this fundamental right; and the vacuums of information that should be filled by the right to knowledge granted by Article 6 of the Constitution, are substituted with discourse and news media imagery that perpetuate the myths and prejudices surrounding firearms. Paradoxically, this only serves to generate a vicious circle of social disinformation.

It would be redundant to say that personal responsibility is not out of the scope of civic education. ... In other words, formal and informal educational programs must emphasize the use of firearms in a manner that is rational, responsible, limited and focused on self-defense and personal security.

Seventh: Simultaneously, a future regulatory law must take into account, at least, the following considerations:

- a) The subordination of the authorization of permits for the ownership and possession of firearms to the successful completion of technical instruction courses on the use of firearms, for their ideal use in personal security and self-defense situations. Today, existing firearms-related courses, certifications and technical studies are available only to law enforcement agents, leaving the civilian population in a state of defenselessness. It is evident that the lack of instruction in this matter could potentially facilitate the fundamental right in question becoming a danger to society instead of a complimentary tool for the action of the State, within the bounds of the Constitution. For this reason, police academies, military command zones and especially private firearms-instruction centers should provide the widest array of instruction courses on the subject. The presence of private firearms-instruction centers throughout the country should be encouraged, but their self-defense curricula should be subject to previously established, objective criteria.
- b) The establishment of clear criteria regarding the authorization of weapons-carry permits that allow for a reasonable degree of predictability, something which today does not exist.
- c) The creation of mechanisms to dissuade people from carrying firearms in public without the proper license, in order to incentivize the registration of the greatest possible number of firearms. This will allow for a degree of control that will disincentive people from participating in the black market, which today fills the void caused by the restrictions in the current legislation.
- d) Indicating, in a restrictive manner, the firearms destined for the exclusive use of the Armed Forces, so that citizens may have access to firearms with an adequate capacity for safeguarding their lives,

- physical integrity and their property. In other words, doing the exact opposite of what the legislation dictates today.
- e) The monopoly on the sale and fabrication of firearms on behalf of the SEDENA [the national army] should be eliminated, allowing the participation of the private sector in this quadrant of the economy, subject, of course, to supervision by the competent authorities. This decision would not only expand supply, but also reduce the costs of acquiring a firearm while fighting illegal arms traffic (by establishing tariffs for the importation of firearms by private persons, with the restriction that they obtain a letter of naturalization in customs practices through the so-called tax-exempt franchises) and creating employment opportunities in the industry, as comparative experience has demonstrated.
 - f) The specific and personal information contained in firearms registrations should be kept confidential, under the premise that knowledge of the names of gun owners and the type of firearm registered would eliminate the elements of surprise and preventive dissuasion that are coupled with the ownership and possession of firearms.
 - g) Mechanisms guaranteeing transparency must be put into place throughout the entire process to allow the community to follow and verify the emergence of this legal institution in Mexican society.
 - h) All indirect measures designed to constrain gun rights (such as high permit costs, prolonged waiting periods, among others) should be eliminated.

Eighth: It is no secret that the Mexican state is currently going through a period of weakness or the Rule of Law is fragile in ample segments of the country. A simplistic pseudo-solution in this context would be to wait for a better moment to give life to our civil rights, which include the human right to the possession and ownership of firearms.

This stance, which may appear attractive in its simplicity, does bring with it certain risks, not just to the spread and survival of democracy, but to the permanence of a national identity and the survival of common citizens, particularly the vast majority of the population who does not have access to bodyguards and protection details, to privileged and guarded areas for recreation and socialization, to securely guarded schools and neighborhoods; in sum, all of the things that help to make life more livable.

There are no rational reasons to allow the weakening of society's efforts to restore the physical and psychological security that has been lost, opting to merely hope that a miracle (and it would certainly be a miracle), or transient administrative measures such as constantly replacing public servants, will restore them on their own.

The citizens of Mexico can wait for someone or something to provide them with reforms that would, in the long term, allow these times to be looked back upon as a dark but transient time in our nation's history; or they can seize this historic moment and use the current institutional crisis as an opportunity to initiate a normative reformation and a process of change in the various pernicious social and cultural practices that plague us today, without leaving aside this human right that would serve, at the very least, to halt the increasing areas of

insecurity, particularly for those in society who are the least fortunate. The once untouched areas of comfort held by middle income sectors have not been immune to erosion or intrusion in these last few years. This alone justifies that deciding to look the other way is no longer an option.

NOTES & QUESTIONS

1. For the current text of Mexico’s constitutional right to arms, see Part A.1.a. of this chapter. For the text of Mexico’s national gun control statute, and for prior versions of the constitutional guarantee, see David B. Kopel, *Mexico’s Gun Control Laws: A Model for the United States?*, 18 *Tex. Rev. L. & Politics* (2014). The article also provides data about gun ownership in Mexico, the practical operation of Mexican gun laws operate, and current controversies, such as the smuggling of U.S. guns into Mexico.
2. Villanueva and Valenzuela argue that violent crime is destroying the fabric of life in Mexico, and that the Mexican gun control statute should be changed so that Mexican citizens can purchase, possess and carry effective arms for self-defense, and receive training in doing so. If you were a member of the Mexican Senate or the Chamber of Deputies, which, if any, of Villanueva’s and Valenzuela’s specific proposals would you vote for?

4. Switzerland

American Founding Fathers such as John Adams and Patrick Henry greatly admired the Swiss militia, which helped inspire the Second Amendment to the U.S. Constitution — the preference for a “well regulated militia” as “necessary for the security of a free state,” and the guarantee of “the right of the people to keep and bear arms.” Late in the nineteenth century, the American military sent observers to Switzerland in hopes of emulating the Swiss shooting culture.

Under the Swiss militia system, every male, when he turns 20, is issued a fully automatic military rifle and required to keep it at home along with 50 rounds. Universal service in the Militia Army is required. When a Swiss is no longer required to serve (age 50 for officers, 45 for others), he may keep his rifle (converted from automatic to semi-automatic) or his pistol (if he served as an officer).

The American Founders also admired Switzerland’s decentralized system of government. Switzerland is a confederation in which the federal government has strictly defined and limited powers, and the cantons, even more so than American states, have the main powers to legislate. The citizens often exercise direct democracy, in the form of the initiative and the referendum. The late political scientist Gianfranco Miglio said the Swiss enjoyed the “last, real federalism in the world,” as opposed to the “false and/or deteriorated” federalism of Germany or America.

For centuries, the Swiss cantons had no restrictions on keeping and bearing arms, though every male was required to provide himself with arms for militia service. By the latter part of the twentieth century, some cantons required licenses to carry pistols, imposed fees for the acquisition of certain firearms (which could be

evaded by buying them in other cantons), and imposed other restrictions — albeit never interfering with the ever-present shooting matches.

In other cantons — usually those with the lowest crime rates — one did not need a police permit for carrying a pistol or for buying a semi-automatic, look-alike Kalashnikov rifle. A permit was necessary only for a nonmilitia machine gun. “Silencers” (noise suppressors) were unrestricted. Indeed, the Swiss federal government sold to civilian collectors all manner of military surplus, including anti-aircraft guns, cannons, and machine guns.

In 1996, the Swiss people voted to allow the federal government to legislate concerning firearms, and to prohibit the cantons from regulating firearms. Some who favored more restrictions (as in other European countries) saw this as a way to pass gun-control laws at the federal level; those who objected to restrictions in some cantons saw it as a way to preempt cantonal regulation, such as the former requirement in Geneva of a permit for an air gun.

The result is a federal firearms law that imposes certain restrictions but leaves virtually untouched the ability of citizens to possess Swiss military firearms and to participate in competitions all over the country.

The Federal Weapons Law of 1998 regulates the import, export, manufacture, trade, and certain types of possession of firearms. The right of buying, possessing, and carrying arms is guaranteed with certain restrictions. It does not apply to the police or to the Militia Army — of which most adult males are members.

The law forbids fully automatic arms and certain semi-automatics “derived” therefrom; but Swiss military rifles are excluded from this prohibition. (The exclusion makes the prohibition nearly meaningless.) Further, collectors may obtain special permits for the “banned” arms, such as submachine guns and machine guns.

In purchasing a firearm from a licensed dealer, a permit is required for handguns and some long guns, but not for single-shot rifles, multi-barrel rifles, Swiss bolt-action military rifles, target rifles, or hunting rifles. Permits must be granted provided the applicant is at least 18 years old and has no disqualifying criminal record. Authorities may not keep any registry of firearms owners. Private persons may freely buy and sell firearms without restriction, provided that they retain a written agreement, and that the seller believes the purchaser is not criminally disqualified.

A permit was already required for manufacturing and dealing in firearms, but now there are more regulations. Storage regulations exist for both shops and individuals. During the Cold War, the government required every house to include a bomb shelter, which today often provide safe storage for large collections of firearms (and double as wine cellars).

Criminal penalties depend on intent. Willfully committing an offense may be punishable by incarceration for up to five years, but failure to comply through neglect, or without intent, may result in a fine or no punishment at all.

Before 1998, about half the cantons allowed all law-abiding citizens to carry handguns for protection in public; in some cases, an easily obtainable permit was needed. The new federal law makes permits necessary everywhere, and permits are issued restrictively. (Still, one can freely carry a handgun or rifle to a shooting range, and they are common.)

Any proposed new restrictions on peaceable firearm possession and use are opposed by the Militia Army; by shooting organizations, such as the Swiss Shooting Federation; and by the gun-rights group ProTell, named after national hero

William Tell. Their allies are the political parties that support free trade, federalism, limited government, noninterventionism, and remaining independent from international organizations such as the European Union or United Nations.

Supporters of firearm restrictions tend to be socialists and Leftists—including those who wish to abolish the Militia Army, to strengthen the central government to be more like Germany, and to join the European Union. Ironically, the Swiss Socialist Party went through a similar period at the beginning of Hitler’s rise. But the Swiss socialists soon recognized the danger, and in 1942—when Switzerland was completely surrounded by Axis dictatorships—the Socialist Party resolved that “the Swiss should never disarm, even in peacetime.”

Based on telephone surveys, the Swiss household gun-ownership rate is 27 percent, not counting militia weapons. Contrast this with the household gun-ownership rates (at least for households willing to divulge gun ownership to a government-affiliated telephone pollster) of 16 percent for Italians, 23 percent for French, and 9 percent for Germans.

In 1994, the homicide rate in Switzerland was 1.32 per 100,000 in the population. Of those, 0.58 (44 percent) involved firearms. Compare this to Italy 2.25 (1.66 by firearms), France 1.12 (0.44), and Germany 1.17 (0.22).

Stephen P. Halbrook, Remarks at the introduction of his book, Target Switzerland: Swiss Armed Neutrality in World War II
University Club, New York, N.Y. (July 16, 1998), and Mayflower Hotel, Washington, D.C. (July 21, 1998)

Americans have been known to confuse the Swiss flag—white cross, red background—with the Red Cross banner, which is the opposite. In World War II, Swiss fighter planes, painted with the Swiss flag, attempted to intercept all foreign planes in Swiss air space and to order them to land. An American pilot, asked whether he thought about firing on the fighters which instructed him to land, responded: “I would never fire on a Red Cross plane!”

Almost 1700 American pilots found refuge in Switzerland after their planes were damaged in bombing raids over Germany. However, the Nazis were not amused by Switzerland’s armed neutrality. Hitler was livid that the Swiss used fighters bought from Germany to shoot down 11 German Luftwaffe planes; the saboteurs he sent to blow up Swiss airfields were captured (they aroused suspicion because they were all dressed in the same odd outfits!).

It is a pleasure to have Sarpedon, a first-rate military publisher, fill the void in World War II history by publishing my book on the Nazi plans to eradicate the Swiss democracy and the Swiss plans to resist to the end. Over 200 years ago, America’s Founding Fathers like Patrick Henry and John Adams were inspired by the example of Switzerland—a democracy in a sea of monarchial despotism. Having devoted much of my career to American constitutional law, publishing books and arguing in the Supreme Court, I was intrigued to know how the Swiss institutions which influenced our Constitution proved their worthiness in the darkest years of European history: Hitler’s Third Reich, 1933-45.

In 1940, after the rest of central Europe collapsed before the German army, Swiss Commander in Chief Henri Guisan assembled his officers at the Rotli meadow near the Lake of Lucerne. He reminded them that, at this sacred spot, in the year 1291, the Swiss Confederation was born as an alliance against

despotism. Guisan admonished that the Swiss would always stand up to any invader. One has only to recall the medieval battle of Morgarten, where 1400 Swiss peasants ambushed and defeated 20,000 Austrian knights.

In World War II, the Swiss had defenses no other country had. Let's begin with the rifle in every home combined with the Alpine terrain. When the German Kaiser asked in 1912 what the quarter of a million Swiss militiamen would do if invaded by a half million German soldiers, a Swiss replied: shoot twice and go home. Switzerland also had a decentralized, direct democracy which could not be surrendered to a foreign enemy by a political élite. Some governments surrendered to Hitler without resistance based on the decision of a king or dictator; this was institutionally impossible in Switzerland. If an ordinary Swiss citizen was told that the Federal President—a relatively powerless official—had surrendered the country, the citizen might not even know the president's name, and would have held any "surrender" order in contempt.

When Hitler came to power in 1933, the Swiss feared an invasion and began military preparations like no other European nation. On Hitler's 1938 *Anschluss* or annexation of Austria, the Swiss Parliament declared that the Swiss were prepared to defend themselves "to the last drop of their blood."

When the Fuehrer attacked Poland in 1939, General Guisan ordered the citizen army to resist any attack to the last cartridge. After Denmark and Norway fell in 1940, Guisan and the Federal Council gave the order to the populace: Aggressively attack invaders; act on your own initiative; regard any surrender broadcast or announcement as enemy propaganda; resist to the end. This was published as a message to the Swiss and a warning to the Germans; surrender was impossible, even if ordered by the government, for the prior order mandated that it be treated as an enemy lie.

When the Germany army, the Wehrmacht, attacked Belgium and Holland, it feigned preparations for attack through Switzerland. Like a giant movie set, divisions moved toward the Swiss border by day, only to sneak back again by night and repeat the ruse the next day. Both the Swiss and the French were tricked into thinking that concentrations of troops were massing to attack through Switzerland and into France. Swiss border troops nervously awaited an assault each time the clock approached the hour, for the Germans were punctual in launching attacks on the hour.

When France collapsed, detailed Nazi invasion plans with names like "Case Switzerland" and "Operation Tannenbaum" were prepared for the German General Staff. They only awaited the Fuehrer's nod.

Threatened with attack from German and Italian forces from all sides, General Guisan devised the strategy of a delaying stand at the border, and a concentration of Swiss forces in the rugged and impassable Alps. This chosen place of engagement was called the *Réduit national*, meaning a national fort within a fort. German tanks and planes, Panzers and Luftwaffe, would be ineffective there.

A fifth of the Swiss people, 850,000 out of the 4.2 million population, was under arms and mobilized. Most men were in the citizens army, and boys and old men with rifles constituted the Home Guard. Many women served in the civil defense and the anti-aircraft defense.

Nazi invasion plans for 1941 were postponed to devote all forces to Operation Barbarossa, the attack on Russia. The Swiss would have their turn in due time, Hitler said. Hitler banned the play *William Tell*. He called the Swiss "the most despicable and wretched people, mortal enemies of the new Germany";

in the same breath he fumed that all Jews must be expelled from Europe. His plan to annihilate the Jews would have faced a special obstacle in Switzerland, where every Swiss Jew (like every other citizen) had a rifle in his home. In the heroic Warsaw ghetto uprising of 1943, Jews demonstrated how genocide could be resisted with only a few pistols and rifles.³² Hitler boasted that he would liquidate “the rubbish of small nations” and would be “the Butcher of the Swiss.” But the dictator was more comfortable with liquidating unarmed peoples and was dissuaded from invading Switzerland. There was no Holocaust on Swiss soil.

As a neutral, the Swiss represented American interests before the Axis powers, such as by inspecting German prison camps holding American POWs. When Vichy France was occupied, German soldiers with submachine-guns took over the American embassy. The Swiss minister, brandishing his Swiss army knife, drove them out.

A Nazi SS invasion plan, recommended for execution in 1944, warned the German general staff that the Swiss fighting spirit was high and shooting instruction good; German losses would be heavy, and a conquered Switzerland would require a strong occupation force. D-Day put the plan on hold, but new dangers threatened Switzerland as the Allies pushed the Nazis back. In 1944, the Wehrmacht’s counter-offensive in the Ardennes, leading to the Battle of the Bulge, proved that the Nazi Beast was still strong and full of surprises. The Swiss prepared for an attack from Germans retreating from Italy. The Swiss resolve remained high, for, as the US State Department declared, “no people in Europe are more profoundly attached to democratic principles than the Swiss.”

Switzerland saved a half million refugees who came there in the war. Restrictive policies by government officials, often secret, were ignored by Swiss who helped refugees. Let it be remembered that Switzerland took in more Jewish refugees than the United States took in refugees of all kinds.

America’s great journalist Walter Lippmann wrote that the Swiss proved their honor by surviving the dark days of 1940-41, they proved that diverse peoples and language groups can live peacefully together, they repudiated Nazism. “It must never be forgotten,” he wrote, “how the Swiss served the cause of freedom.”

In the American Revolution, a Swiss leader wrote to Benjamin Franklin calling America and Switzerland the “Sister Republics.” After two centuries of mutual respect, today a media frenzy falsely depicts the Swiss as Nazi collaborators. It was the opposite. Nazi Propaganda Minister Goebbels called Switzerland “this stinking little state” and ranted that the Swiss press was “either bought or Jewish.” The Swiss bashing seen in the *New York Times* today could use a reality check by reference to the *Times* issues of the war period—such as a 1939 issue with a map showing Switzerland as a possible invasion route, or a 1942 issue calling Switzerland an “Oasis of Democracy.” Our new “Ugly Americanism” will never have the credibility of Winston Churchill, who observed near the end of the war: “Of all the neutrals Switzerland has the greatest right to distinction. . . . She has been a democratic State, standing for freedom in self-defence among her mountains, and in thought, in spite of race, largely on our side.”

32. [For more on the Warsaw ghetto, see David B. Kopel, *Armed Resistance to the Holocaust*, 19 J. on Firearms & Pub. Pol’y 144 (2007), available at <http://www.davekopel.com/2a/foreign/Armed-Resistance-to-the-Holocaust.pdf>. — EDS.]

NOTES & QUESTIONS

1. Compare Halbrook’s summary of the Swiss experience during WWII with the objection that individuals bearing their private arms could offer little resistance to tyranny against states wielding advanced military technology. Has military technology advanced so much since WWII that the Swiss lesson (suggesting that private arms can have a substantial deterrent effect on outside state aggressors) is no longer applicable? Does your assessment change depending on whether people are resisting an outside force or their own domestic government gone rogue? *See* Chapter 11.K.
2. As a practical political matter, how much advanced military technology can “domestic tyrants” intent on preserving a functioning state really use against their own populations? Do private arms give citizens more flexibility within this dynamic, or do they just impose more risk that the state will use higher levels of violence?

5. Canada

In 2012, the Canadian Parliament passed Bill C-19, which repealed Canada’s mandatory federal registry of all privately owned long guns, by a vote of 159-130 in the House of Commons and 50-27 in the Senate. What follows is excerpted from the debate on the bill in the House of Commons. In Canada, as in the United Kingdom, “government” is often used to mean the party that currently has the majority in Parliament.

**Parliament of Canada, 41st Parliament, 1st Session,
Ending the Long-gun Registry Act (Feb. 13, 2012)**

Hon. Diane Finley [of the Conservative Party of Canada] (for the Minister of Public Safety) moved that Bill C-19, An Act to amend the Criminal Code and the Firearms Act, be read the third time and passed.

Mr. Garry Breitkreuz (Yorkton — Melville, [Saskatchewan,] CPC [Conservative Party of Canada]):

Mr. Speaker, I am pleased and honoured to have the opportunity to begin the third reading debate on Bill C-19, ending the long-gun registry act. I thank the public safety minister and the parliamentary secretary for allowing me the honour to lead off on this debate.

The legislation before us today fulfills a long-standing commitment of our government to stand up for law-abiding Canadians while ensuring effective measures to crack down on crime and make our streets and communities safer for all Canadians. The bill before us today is quite simple. It would put

an end to the need for law-abiding hunters, farmers and sports shooters to register their non-restricted hunting rifles and shotguns. It is nothing more and nothing less.

For those who are not familiar with this issue, there were two requirements to gun ownership in Canada. One was registration and the other was licensing. I am sure by now that my hon. colleagues on both sides of the House are very familiar with my position on Bill C-19. I feel that laying a piece of paper beside a firearm, which is called registration, does nothing to improve public safety.

Instead of explaining my position over again, I have decided to simply highlight testimony from several expert witnesses who appeared before the public safety committee as it studied Bill C-19 last November. There is a recurring theme in all of their remarks and the four elements of that theme are: First, the long gun registry has been a colossal waste of money; second, it has targeted law-abiding gun owners, not the criminal use of firearms; third, it has done nothing to enhance public safety; and fourth, the data is so horribly flawed that it must be destroyed.

For the rest of my remarks, I will read into the record witnesses' testimony. The first person I will quote is Mr. Greg Farrant of the Ontario Federation of Anglers and Hunters who had this to say about Bill C-19:

A paper trail of trained, legal, licensed firearm owners does not address the real problem. Even a well-run registry, which this is not, will not prevent random violent crime. Believing in that ignores the glaring reality that the vast majority of criminals don't register firearms; and in the rare case when they do, a piece of paper and the creation of a system where possibly 50% of the firearms in Canada are not included³³ does nothing to anticipate the actions of an individual, nor do anything to prevent such actions in the first place.

In the case of the long-gun registry, there's a glaring absence of fact-based evidence to support its existence. Suggestions that gun crime in Canada has declined since the introduction of the long-gun registry under Bill C-68 ignores the fact that gun crime, particularly gun crime using long guns, has been on the decline in this country since the 1970s, two decades before this registry ever came into being. Crimes committed with long guns have fallen steadily since 1981. Bill C-68 was not introduced until 1985 [*sic*, 1995] and wasn't mandatory until 2005.

The present system focuses all of its efforts on law-abiding firearms owners and includes no provisions for tracking prohibited offenders, who are most likely to commit gun crimes.

This should be about who should not have guns rather than about who does.

Another prominent argument we've already heard here today is how many times per day the system is used by police. . . . We've recently heard 14,000 and 17,000. . . . The vast majority of so-called hits on the registry have little or nothing to do with gun crime. The majority of these are cases of an officer maybe stopping a vehicle for a plate identification or an address identification, which automatically touches all databases, including the long-gun registry, despite the fact that the check has nothing to do with firearms in the first place.

33. [Presumably due to massive noncompliance by Canadians. — Eds.]

The next quote I will read is from Solomon Friedman, who is a criminal defence lawyer. He stated:

You will no doubt hear in the coming days and weeks from various interest groups about how the long-gun registry is a minor inconvenience, merely a matter of paperwork. We register our dogs, our cats, and our cars, they say. Why not register our shotguns and rifles, as well? As you know, the registration scheme for non-restricted long guns, and for prohibited and restricted firearms as well, is enacted as federal legislation under the Criminal Code and under the Firearms Act.

With the criminal law power comes criminal law procedure and, most importantly, for the nearly two million law-abiding licensed gun owners in Canada, criminal law penalties. Unlike a failure to register a pet or a motor vehicle, any violation of the firearms registration scheme, even the mislaying of paperwork, carries with it the most severe consequences: a criminal charge, a potential criminal record, detention, and sometimes incarceration. This is hardly comparable to the ticket under the Provincial Offences Act or the Highway Traffic Act. . . .

In addition, registry violations are often grounds for colourable attempts on the part of police, the crown, and the chief firearms officer to confiscate firearms and revoke lawfully obtained gun licences. . . . [L]ong-gun registry violations [are] used as a pretext to detain individuals, search their belongings and their homes, and secure evidence to lay additional charges.

Parliament ought not to be in the business of transforming licensed, law-abiding, responsible citizens into criminals, especially not for paper crimes.

There are millions of Canadian gun owners who will be glad to know that in the halls of Parliament Hill, hysteria and hyperbole no longer trump reason, facts, and empirical evidence.

. . . [T]he registration of firearms, aside from having no discernible impact on crime or public safety, has merely alienated law-abiding firearms owners and driven a deep wedge between gun owners and law enforcement.

The next quotation is from Sergeant Murray Grismer of the Saskatoon [, Saskatchewan] police service. He said:

. . . [T]he registry for non-restricted rifles and shotguns . . . should be abolished. Thousands of police officers across Canada, who are in my opinion the silent or silenced majority, also share this position.

. . . [T]he Canadian Police Association . . . adopted their position without ever formally having polled their membership.

The Saskatchewan federation is the only provincial police association that polled its entire membership on the issue of the registration of firearms. When polled, the Saskatoon Police Association was 99.46% against the registry, while our compatriots in many of the other Saskatchewan police forces were 100% in opposition to the registry.

. . . [T]he registry can do nothing to prevent criminals from obtaining or using firearms. École Polytechnique, Mayerthorpe, Spiritwood and Dawson College are synonymous with tragic events involving firearms. However, the firearms registry for long guns would not, could not, and did not stop these tragic events. The retention of the firearms registry or records will do nothing to prevent any further such occurrences. . . . [E]ven Canada's strict licensing regime and firearms registry cannot prevent random acts of violence.

For the officers using the registry, trusting in the inaccurate, unverified information contained therein, tragedy looms at the next door. . . . Knowing what I do

about the registry, I cannot use any of the information contained in it to square with a search warrant. To do so would be a criminal act.

Projections from within the Canadian Firearms Centre privately state that it will take 70 years of attrition to eliminate all of the errors in the registry and to have all of the firearms currently in Canada registered. This level of inaccuracy is unacceptable for any industry, let alone law enforcement. . . .

I would like to now quote from Linda Thom, the Canadian Olympic gold medal winning shooter, who said:

—I’m accorded fewer legal rights than a criminal. Measures enacted by Bill C-68 allow police to enter my home at any time without a search warrant because I own registered firearms, yet the same police must have a search warrant to enter the home of a criminal. I’m not arguing that criminals should not have this right—they should. I’m arguing that this right should be restored to me and all Canadian firearms owners.

My next quotation comes from Ms. Diana Cabrera of the Canadian Shooting Sports Association. She had this to say:

—I’m an international competitor shooter. Although I’m Canadian, I currently compete for the Uruguay national team. . . . The challenge of obtaining the public safety goals of the firearms . . . are major concerns . . . the fear of confiscation, the perceived social stigma of firearm ownership and demonization, and the many costs and burdensome processes involved. . . . There is no question that the long-gun registry has deterred individuals from entering their shooting sports. . . . The main issue for competitive participants is the fear of imminent criminality. They may easily find themselves afoul of uniformed law enforcement or [Canadian Border Services Agency] officers, even if all the paperwork is in order. Any paperwork error may lead to temporary detention, missed flights, missed shooting matches, and confiscation of property. . . . Law enforcement and media coverage of firearm issues have made this situation even worse. Firearm owners are subject to spectacular press coverage in which reporters tirelessly describe small and very ordinary collections of firearms as an “arsenal”. . . . Will I be targeted at a traffic checkpoint if a CPIC verification says I possess firearms?

Tony Bernardo, executive director of the Canadian Shooting Sports Association, talked about the number of firearms owners of guns in Canada. He said:

Based upon the Canada Firearms Centre’s polling figures, in 1998 there were 3.3 million firearms owners in Canada. On January 1, 2001, 40% of Canadian gun owners—over 1 million people—became instant criminals.

Fewer than half the guns in Canada are actually in the registry. . . . Getting the ones that are out there to actually come into the system would be like pulling teeth. . . . To get those people to come forward now, you would have to go right back to the very basics of the act and change the very premise of the act; the first sentence says that it’s a criminal offence to possess a firearm without a licence.

Mr. Garry Breitkreuz: . . .

I would like to point out to the member something that was said at committee. I have to lay this on the public record here. During the eight years from

2003 to 2010, there were 4,811 homicides, and of these, 1,408 involved firearms. The data Statistics Canada gathered revealed that only 135 of the guns were registered. In just 73 cases, fewer than 5% of all firearms homicides, was the gun registered to the accused, and some of them of course may be innocent. Only 45 of the 73 cases involved long guns, fewer than 1% of homicides. One hundred and twenty-three police have been shot and killed. Only one of these murders involved a registered long gun and it did not belong to the murderer.

We are focusing on the wrong thing. All the statistics I have heard, and the member referred to some of them, are completely irrelevant in the way they are being cited.

We really need to dig to the bottom of this. I have done that. I had to change my mind on this issue after I had dealt with it for one year. I had to do a 180 and tell myself after I had looked at the evidence that the firearms registry is not working. I thought one could not be opposed to gun control, but many people confuse gun control with the firearms registry. It is not, and that is what we need to remember.

Ms. Françoise Boivin (Gatineau, [Québec,] NDP [New Democratic Party]): . . .

From the outset, I have been in favour of maintaining the firearms registry. In fact, I was in favour of creating it. Unfortunately, we have a tendency to quickly forget history, and that is why we keep making the same damn mistakes all the time. We are forgetting why the registry was created. The firearms registry was created under Bill C-68. I would like to give a short history lesson. I would like to tell you what really happened, since the Conservatives like to reinvent history.

This bill was introduced because, in 1989, a deranged man entered the École Polytechnique with the expressed intention of shooting the young women who were going to school there. He had mental health problems, but whatever the reasons, this crazed gunman entered the school, targeted people and killed them. We must remember this. My heart bleeds for these victims.

Yet since that time, the Conservatives have been constantly using the issue of abolishing the firearms registry to gain political advantage. They have turned it into their pet issue, as though Canada would crumble if we kept the firearms registry. . . .

The goal was for our society, our country, to have a record of who owns guns and how many they own in order to ensure that the individuals have the right to own those guns, that they are storing the weapons safely, and that they do not intend to use them for criminal purposes. Is it a threat to public safety for a society to seek that assurance? If so, what a terrible society. This is not a perfect system, but if we have to choose between scrapping it entirely and improving it, I think we would be better off improving it.

. . . You do not, however, throw the baby out with the bathwater just because the Liberals did not know how to do their job. You try to improve things.

That is what we strove to do, on our side of the House. We listened to people with completely opposing points of view. We listened to those who said that the registry must not be touched. That is what we do in the NDP: we listen to what people have to say. We do not listen only to one category of individuals in society, as the members opposite have done on this issue. We listened to the concerns of

hunters, aboriginal people, first nations and police chiefs. We listened to the concerns of almost all stakeholders so that we could attempt to eliminate the irritants.

Obviously, if you are a hunter, you do not want to be labeled a criminal for forgetting to register a weapon. However, what our colleagues opposite do not admit is that the irritants have been largely removed. There are now fewer complaints because of the armistice [an amnesty allowing registration by people who had missed the original deadline] and the fact that there are incredibly generous time frames for the registration of firearms. . . .

The Conservatives are speaking on behalf of a minority of people and the National Rifle Association. There is perhaps no hard evidence that this is the case, but there is something fundamentally bizarre. As a lawyer, I know that when something factual seems to point to but one conclusion, even if not by direct association, there is a good chance that it will be fact. Given that the witnesses who appeared before us in committee are the same people who travel around the United States advocating that every American citizen should carry a weapon in their pocket, I can put two and two together and work out what truly motivates them.

When I talk to hunters — and there are many in my neck of the woods — I ask them what is the matter with the gun registry. They have told me that, at first, it was cumbersome, and that they did not know how it worked. They do not seem to really understand how it works. They also told me that, with time, they have gotten used to it, have registered their guns and do not talk about it.

In a similar vein, I can just imagine the debate that took place when the lawmakers introduced automobile licensing. People travelled by horse and buggy, and I am sure that there was not much registration. How did we establish the registration system when we began driving cars? I am trying to imagine the debates that took place in the early days of Confederation.

That said, we do not have to get rid of something just because it irritates people. After conducting studies and having discussions with various people who were for or against the registry, we presented some very reasonable proposals to remove the irritants.

From the outset, I have tried to understand why our friends opposite have mounted such a visceral attack on the registry. Thinking of the victims does elicit great emotions in me and I do feel very sad. But I can still take Bill C-19, read it and ask myself, what complaints do our Conservative friends have? First, they say that it does not save lives. No one here can confirm this.

When I asked the question in committee, it made the government's witnesses uncomfortable. It bothered them when I asked them whether they could tell me with certainty and with evidence to back their claims, that not one life had been saved thanks to the firearms registry. Chiefs of police came to tell us that they were using the registry. People in suicide prevention came to tell us that since the registry was established, suicide rates had dropped. Generally speaking, long guns are used for suicide. A smart person can put two and two together and realize that the number of suicides with a long gun goes down when there is a registry. The problem was that no one was able to tell me that the registry had not saved at least one life. Saving a single life is certainly worth \$1 million or \$2 million a year. If we can save a few lives a year, then so much the better.

Whether some people like it or not, the registry is that and more. I would not base my entire argument on the fact that the registry saves lives because often, people will counter the argument by saying that the registry did not prevent a man from gunning down women at the Polytechnique. That is the type of debate we are having. No one on this side of the House is claiming that the registry is going to prevent a mentally ill person from walking around with a legally obtained gun and doing whatever he wants with it. That is one of the Conservatives' arguments. However, evidence shows that the police have used the data in the registry in their investigations in order to find out how many guns a person possesses, and so forth. . . .

Quebec wants to have the data transferred to it. How does transferring the data to Quebec hurt anyone? The province does not want to use the data to criminalize people. It has no jurisdiction when it comes to the Criminal Code. The friends of the members opposite who are hunters will not have a problem. If Quebec wants to legislate in this area and ensure that people with long guns are registered and wants to know how many weapons the registrants have, then the data will be useful.

Clause 11 of Bill C-19 includes a shocking loophole: I could own a legally obtained weapon and transfer ownership to my colleague on my right, and the only question I would be asked would be whether I had reason to believe that my colleague should not have a weapon.

Some people might contradict me on this, but honestly, I do not really get the sense that he should not have a weapon, so I transfer ownership of the weapon because I do not feel like having it anymore and I need the \$300. So I give the weapon to my friend. If the Conservatives cannot see the loophole in that, then there is a problem. It is not safe.

Let us turn to the Commissioner of Firearms' report. From what I know, the commissioner is not a hysterical person or someone who is out of touch. The commissioner's report includes facts and is based on factual data collected year after year demonstrating how the registry works and how it is useful. I would encourage hon. members to read this report, because having read it, members cannot in all decency rise in this House and vote in favour of Bill C-19 because we know what steps have been taken to address all the irritants. And that is all the hunters, aboriginal peoples, first nations, gun collectors and the rest were asking us for: to have a way of registering a weapon without it being more worrisome and damaging than necessary. Everything is there, everything is permitted and registration hardly takes 15 minutes. Hold on. We may want to prevent the proliferation of weapons in circulation, but we will no longer be complying with our international treaties. . . .

In closing, there are so many things that need to be said. People write to me about this every day to share data with me. The public health authorities in Quebec are calling unanimously for the registry to be kept. This is important, and it has been proven that the registry has had an impact when [it] comes to long guns. . . .

Mr. Ryan Leef (Yukon, CPC):

Mr. Speaker, it is important that we clear up the record on one thing. It is not something the opposition has done throughout this debate, much of which I have been privy to.

I heard the hon. member say that we had heard testimony at the committee about a reduction in suicide rates. That is absolutely not the case. In fact, the expert testimony and evidence we heard at committee was that suicide rates had no correlation whatsoever with the long gun registry and had more in fact to do with the introduction of medications, the SSRIs.³⁴

For the member to stand up in the House and say that the long gun registry is correlated in any way with the prevention of suicide is just wrong. However, that is consistent with all of the other messages by the opposition.

I would like my hon. colleague to reiterate the testimony she heard directly linking declining suicide rates and the long gun registry. That is not what I heard and not what other members of the public safety committee heard. . . .

Ms. Françoise Boivin:

Mr. Speaker, I will cite two sources. The first one would be the people from the Association québécoise de prévention du suicide. They spoke in French, but I imagine that the hon. member was listening to the interpretation. They said very clearly that the registry had an impact. Directors of Quebec’s public health said that making it more difficult to access long guns had an impact. Statistics show that long guns had been used in most suicides. The registry makes it more difficult to access long guns. . . .

Mr. Francis Scarpaleggia (Lac-Saint-Louis, [Quebec,] Liberal): . . .

The government has been very shrewd in presenting this issue in very simplistic black and white terms, namely that the problem of guns in cities is a problem of handguns and that when we talk about long guns, we are talking about rural populations who need the long guns either to protect their agricultural operations or to pursue their traditional culture of hunting, as the hon. member across the way mentioned before. However, as I mentioned in my speech on second reading, this is a false dichotomy because more and more urban dwellers are buying long guns and replicas of guns they see in movies and video games. In fact, in the metropolis of Toronto alone, not a rural region but the great metropolis of Toronto, there are 287,000 non-restricted firearms registered. To say it is just a rural versus urban issue is a false argument.

The second myth or false argument is that all of these inquiries to the gun registry, some estimated to be as high as 17,000 per day, are a function of routine or perfunctory inquiries, for example, of a driver of a car who is receiving a parking ticket. In other words, all of these queries are said to be automatic and secondary to the rather routine and mundane primary queries. However, that is not what the committee heard from Mr. Mario Harel, chief of police of the Gatineau police service and vice-president of the Canadian Association of Chiefs of Police, who told the committee:

There is truth to the fact that a number of these are what has been referred to as “auto-queries”. However these cases are rare, which we believe is an endorsement of the fact that law enforcement views this information as a valuable tool, a bit of

34. [Selective serotonin reuptake inhibitors — the class of drugs that includes Prozac and Zoloft and is commonly prescribed to fight depression and other disorders. — Eds.]

information that, when combined with other information, assists in assessing a situation an officer may face.

The third myth or false argument is the idea that the registry has not been proven to save lives. There was a study presented to the committee by Étienne Blais, Ph.D., and Marie-Pier Gagné, M.Sc., and Isabelle Linteau showing that the registry does save lives. Let us put that aside for a moment, because we can get into a battle of studies and the hon. member for Yukon will bring up Dr. Gary Mauser's study and others. We can get into these battles between studies, but let us look at this from a logical, practical or common sense point of view. I know the party opposite likes to focus on practical, common sense arguments.

It is very hard to prove that the registry saves a life. Theoretically, it makes sense. Practically, it is very hard to prove. For example, it is impossible to prove that I made it to Ottawa via the highway today and remained alive because of the 100 kilometre an hour speed limit, which, by the way, I respect. It is very hard to prove that is why I am here speaking to the House today. In fact, there will be no headline tomorrow saying that the life of the member for Lac-Saint-Louis was saved because of the 100 kilometre per hour speed limit. I will not be a statistic, but we know that this speed limit saves lives. It is something that makes sense and it is very hard to prove that someone is alive because of either this speed limit or the registry.

A fourth myth or false argument is the idea that people are still killed with long guns even though we have a registry. I would stress that there is no policy instrument that can fully prevent that which it aims to prevent. It can only control that which is socially undesirable.

This is what I would call an ironclad law of public policy. Public policy is almost always based on the findings and recommendations of social science which itself by definition comes with associated margins of error.

I can boldly predict based on this ironclad law of public policy that dog bites will continue into the foreseeable future even by dogs that have been registered with city hall. I can put my money on that. I will also predict that car theft will continue into the future even though cars are registered with the province.

Unfortunately, it is clear to all of us that gun crimes will not disappear even should the registry by some miracle survive. There will be, unfortunately, future gun crimes, some of which will be quite heinous. It is unfortunate and this will happen even if the registry were to survive.

It is interesting that members opposite will say that registering guns just does not work because criminals do not register guns. I can see that point. Criminals do not register their guns. Therefore, that means criminals do not register their handguns. The only people registering handguns would be law-abiding citizens, as the members across the way like to invoke. As I said in my speech at second reading, the people in my riding [district for electing members of a legislature] who are gun owners are sterling citizens. They are the most active volunteers, conscientious and responsible, but that is not the point.

The point I am trying to make with respect to the handgun registry is that if the Conservatives were logical, they would say that registries do not work because criminals do not register firearms; therefore, they are getting rid of the long gun registry and they are getting rid of the handgun registry. Thankfully, they are not getting rid of the handgun registry. That points out the fundamental contradiction in their thinking on gun control.

The fifth myth or false argument is that the registry is wasteful and useless. I have heard that many times. We hear that from the Minister of Public Safety on a continual basis. We have evidence from the police, including the [Royal Canadian Mounted Police (RCMP)]. If the government does not buy the RCMP's evidence, then there is a problem between the government and the RCMP. There is a lack of faith in the RCMP by the government. There is concrete evidence that the registry helps with police investigations.

I will quote Mr. Mario Harel, the chief of the Gatineau police service and vice-president of the Canadian Association of Chiefs of Police, who said that the elimination of the gun registry will add significant costs to their investigations, costs which will be downloaded to police services and lead to crucial delays in gaining investigative information.

The word "downloading" seems to come up a lot with the government. It downloads costs of the prison agenda and all kinds of other things to the provinces. Here is an example where again the government will be downloading costs, in this case to provincial and municipal police forces.

One does not have to take Mr. Harel's word for it. One just has to listen to what Matt Torigian, the chief of Waterloo Regional Police, has said about the long gun registry's usefulness in police investigations. He has given a couple of concrete examples. One is real and the other is more hypothetical, but based on typical cases that the police are involved with. He said:

We came across a crime scene recently with a man who was obviously deceased by gunshot and a long gun was at the scene. Because of the registry, we were able to trace the weapon to the person who had just sold it to the man who was deceased. We determined it was a suicide and the investigation stopped there.

We know from this example that if there had been no registry the police would have thought that maybe it was a crime and would have had to open up an investigation. Many hours of valuable police time would have been wasted looking for a perpetrator of a crime that was really a suicide.

Another example given by Chief Torigian is more hypothetical but no doubt commonplace. Say a group of thieves break into a farmhouse near Montreal and steal a shotgun. They saw it off to conceal it better under their clothes. They drive to Windsor, Ontario, where in the course of committing a bank robbery they drop the gun and flee the scene. Because of the registry, the police find out that the gun is owned by a Montreal man, a victim of theft. This might give the force a lot more leads to go on. For example, there might be witnesses to the break-in in Montreal. The registry would thus allow coordination of efforts between police departments in order to efficiently resolve the case and move on to something else.

There is more anecdotal evidence. The following example is from the 2010 RCMP firearms report, the one that was ready a while back but was only released on January 19 after the committee had finished its hearings on the bill:

A large municipal police force contacted CFP NWest for assistance in recovering obliterated serial numbers on two firearms seized in a robbery and kidnapping investigation. After the serial number of one of the guns was restored, NWest used the CFP's Registry database to determine that the gun was registered to one of the suspects and had not been reported lost or stolen.

In another example the registry helped police link a grandfather's gun to his grandson who had perpetrated a gun crime. Again, I quote from the RCMP report:

CFP NWEST was asked to assist in a shooting investigation. They confirmed, through the Canadian Firearms Information System, the firearm was one of seven registered to the same individual, and it had not been reported lost, missing or stolen.

RCMP investigators met with the registered owner who was able to account for only four of his seven firearms. The subject was interviewed in order to establish a possible link between him and the shooting suspects.

As a result of the interview, the owner's grandson was identified as one of the accused in the shooting, and all seven firearms were accounted for in the follow-up interview of the accused. Numerous firearms-related charges were laid in relation to this incident.

The police caught the grandson. If the police had not caught the grandson by using the registry, the grandson might still be wandering around with a gun. Who knows what might have happened.

This is another point I would like to make about those who want to dismantle the registry. They will not admit to possibilities, and this is a fundamental error when it comes to social science. It is all about probabilities and possibilities.

Dr. Gary Mauser made a fine presentation at committee. It was quite rigorous and he was a very agreeable witness. This is not an attack on Dr. Mauser. After I gave him some examples of how it was plausible the registry might have saved lives, I asked him, in his opinion, in the 10 years the registry has existed is it not possible that one life may have been saved. I was not even asking Dr. Mauser was one life saved; I was asking him if it is not possible in this universe of probabilities that one life may have been saved. His answer was a categorical, "It's impossible".

This is what we are dealing with. We are not dealing with open-minded thinking on this issue. We are dealing with categorical statements that actually are nonsensical when we really think about it. Ending the registry would be a mistake.

The Liberal Party in the last election campaign was quite cognizant of the fact that some legitimate law-abiding firearms owners feel criminalized by the system, that first-time failure to register not be a criminal offence, thereby compromising with one of the points the government is making. There was some movement on the issue. It would have solved the problem and it could have kept the registry. People would not have felt criminalized and Canada would be safer.

Mr. Ryan Leef (Yukon, CPC):

Mr. Speaker, I have spoken to this bill a number of times. I would say to my hon. colleague that I certainly have never separated rural and urban Canadians' concerns around the long gun registry nor rural and urban Canadians' use of long guns. In fact, we are well aware that both rural and urban Canadians utilize long guns.

A good portion of what the member is saying makes sense, but I will tell him what the people in my riding and I have a hard time with. We never hear concerns that this legislation that has been brought in has criminalized Canadians. It is not for want or need of registering these long guns. A lot of times it boils down to errors made in the system which cause registrants, law-abiding Canadian citizens, to be not necessarily targeted but subjected to these crazy search and seizure provisions and criminal sanctions because of it. We are making Canadians into criminals because of paper errors. Nobody thinks that is an effective use of government legislation, Canadian taxpayer dollars, or police resources and time. . . .

Mr. Dan Albas (Okanagan — Coquihalla, [British Columbia,] CPC): . . .

I believe it is important to share with the House the frustration that I hear from the rural residents in my riding. They are law-abiding citizens and they are taxpayers, and yet they are forced to comply with a system created out of Ottawa that does nothing but inconvenience the lifestyle they work hard to enjoy.

Everyone in the House knows that criminals do not register their guns. It is often a repeated point in this debate but it is the truth. However, more important, we need to recognize that there are times when a registered gun is used to take a life. Recently, in my riding, a family lost a loved one as a result of domestic violence. Did the registered gun stop the alleged murderer from pulling the trigger? Sadly, it did not. For those people in society who are capable of taking a life, the fact that a gun may or may not be registered means nothing to them. The simple fact of the matter is that the long gun registry has not stopped crime, nor is it saving lives.

I have also listened to the opposition arguments in favour of the long gun registry. The opposition suggests that its greatest contribution is that it provides law enforcement with a record of where guns are, and not just where they are but what kinds of guns they are.

Those who followed the committee hearings for Bill C-391 last year will know that members heard testimony from numerous respected and experienced police officers. Those experienced officers told us that the information provided by the long gun registry was not reliable. I have met with many front-line officers who have made it very clear that they cannot rely on the registry to confirm if a gun may or may not be at that address. In fact, if officers were to rely solely on the long gun registry, they would be putting their life and the life of their colleagues at risk.

We also know that there are long guns that have never been registered and those that have not been registered properly, and situations where model numbers or catalogue numbers were used instead of serial numbers.

The long gun registry has been in place for over a decade. What are the results? The registry has not stopped crime, nor has it saved lives. Millions of dollars were spent on the registry and what are the results for the taxpayers? We have a database that front-line officers tell us that they cannot depend on. . . .

One of the challenges that many communities in my region are facing is an overpopulation of deer. On the surface it may not seem like a problem, however, deer destroy small gardens and can be aggressive to small animals and even adults. They also present a real danger to motorists. The reality is that fewer people are hunting these days, in part because of the burden and costs of

dealing with issues like the long gun registry. In my riding, many residents have told me that they feel the quality of life in rural Canada is threatened. That is why I believe it is important we take action on their issue. . . .

I am proud to say that our government is now investing \$7 million a year to make the screening process for people applying for a firearm's licence stronger. Bill C-19 would not change any of those requirements. In fact, no one would be able to buy a firearm of any kind without passing the Canadian firearms safety course, the background check and without having a proper licence.

I support the bill because it would eliminate a law that places an unnecessary burden on law-abiding Canadians. The bill would also free up resources that could be better spent on anti-crime initiatives to help make our streets safer.

We need to be honest with ourselves about the real gun problem in Canada. It is not just the legally acquired shotguns and rifles in the hands of our farmers and hunters that is the problem. While we continue to penalize them, it may seem like a solution to some members opposite, but doing so does not stop crime. A failed registry and a flawed database is not an answer.

Between 2005 and 2009, police in Canada recovered 253 firearms that had been used in the commission of a homicide. Some of those guns were registered, most were not. However, we need recognize that the registry failed 253 times to prevent crime, much as it failed in my riding last year. As a result, I cannot support a process that requires law-abiding, tax paying citizens to continue to dump money into a system that offers no tangible results. . . .

Mr. Dean Del Mastro (Parliamentary Secretary to the Prime Minister and to the Minister of Intergovernmental Affairs, CPC): . . .

I have had a number of constituents in my riding office over the last number of years who have come in, World War II veterans, for example, who have had their firearms confiscated for no reason other than forgetting to renew their registration. They had been registered. I have seen these people come into my office absolutely stricken, feeling that they were treated like criminals by a registry that was created by the former Liberal government.

Has the member heard of any of these people coming in, talking about how they were treated by officials who subjected them to these laws? . . .

Mr. Bob Zimmer (Prince George — Peace River, [British Columbia,] CPC): . . .

The long gun registry has been expensive. This is an indisputable fact. The [Canadian Broadcasting Corporation], not known for its Conservative bias, has estimated a total cost of over \$2 billion over the 17 years of the registry. Let me remind members that the former Liberal justice minister, Allan Rock promised it would not cost a cent more than \$2 million. That is a hefty price to pay for an inferior product, as we can all agree. The \$2 billion could have gone a long way in other safety initiatives, including preventive action or rehabilitative programs.

Across this country, Canadians are working hard to provide for their families. They do not throw money away on items or services that are not beneficial or practical for them or for their families. It is time that we follow their lead and do away with the needless spending on the registry.

The long gun registry does a fine job of collecting the names of those using their long guns for sport and protecting their livestock. It does an awful job at stopping illegal activity, using guns that were never legally purchased or

registered in the first place. That is because the people listed in the registry are individuals who have acquired and wish to use their long guns in legal ways.

They have followed their government’s requirements. They comply because they wish to abide by the law. These people are not the ones committing gun crimes in Canada. This is the key reason that the long gun registry is an ineffective piece of legislation.

This is not a surprise to me, yet I suspect it will come as one to the opposition. Most criminal activity naturally operates outside of the law, hence its criminality. Guns used in crime are generally not legally purchased or registered. More often than not, they have been brought into Canada for criminal use and for that reason are never registered. This renders the registry useless in both tracking down criminals and protecting Canadians from harm. . . .

We are looking forward to the day that law-abiding Canadians can relax and know that their information has been completely destroyed. That is why Bill C-19 also includes a provision to destroy all data collected by the registry in the last 17 years. This aspect is extremely important, as it is necessary to protect innocent citizens from ever being targeted by their government again.

Canadians gave their support for the abolition of the registry last May. Our government stands by our promise to remove it from the federal level forever. . . .

Mr. Bob Zimmer:

Mr. Speaker, the hon. member across the way brought up one of the most misunderstood facts about the registry. She brought up questions about licensing. That is one thing this government would not change. It would be just as hard to purchase a weapon now as it has been in the past. That all has to do with licensing of firearms as opposed to the registration of law-abiding farmers and gun owners. It is an apples and oranges argument. We would not change licensing, it would be just as difficult as it was before. We would continue to provide safety for Canadians. . . .

NOTES & QUESTIONS

1. *Non-restricted, restricted, and prohibited firearms.* Bill C-19 only repealed the federal registration requirements that applied to “*non-restricted*” firearms, such as most traditional rifles and shotguns. Canadian law divides guns into three categories:
 - *Non-restricted* firearms. This includes rifles and shotguns that are not restricted or prohibited.
 - *Restricted* firearms. This includes handguns that have a barrel longer than 105 mm (about 4.1") in length and a caliber other than .25 or .32. It also includes long guns that can be folded or telescoped down to less than 660 mm (about 26") in length. All AR-15 pattern semi-automatic rifles are designated as restricted firearms by federal regulation. Restricted firearms may be lawfully owned with a special permit, but are subject to stricter regulations on transportation, storage, and use than non-restricted firearms.
 - *Prohibited* firearms. This includes all handguns in .25 or .32 caliber or with barrels of 105 mm or less (except for certain Olympic target pistols). By regulation, it also includes most semi-automatic rifles and carbines of

military appearance such as AK-47-, FN-FAL-, and Uzi-patterned rifles. Prohibited firearms may be lawfully owned only under limited circumstances.

In addition, semi-automatic rifle magazines are limited to five-round capacity and handguns are generally limited to ten-round magazines. Notwithstanding the repeal of the long gun registry, Canadian law still requires all gun owners to obtain a gun-owner's license.

2. *Provincial differences.* Opposition to the effort to repeal the long gun registry was centered in the province of Quebec. After the passage of the repeal, Quebec unsuccessfully sued to prevent the destruction of the registry data for Quebec gun owners' long guns. Quebec stated that it wanted to maintain its own, provincial registry. *See Québec v. Canada*, 2013 QCCA 1138 (Québ. Ct. of App.) The case has been appealed to Canada's Supreme Court. *Québec (procureur général) v. Canada (procureur général)*, no. 35448 2013 carswell Que 11266 (Nov. 21, 2013).
3. If you were a Canadian MP or Senator, and your party allowed you to vote your conscience, on the registration repeal, how would you have voted? Why? If you thought that the pro/con arguments were about equal, would you have voted in accord with the majority view in your riding (district)?
4. Is the repeal of Canadian long-gun registration a possible sign of a growing global consciousness of a right to arms? (Discussed at the end of Chapter 13.)
5. If you were a strategist for Canada's Liberal Party, which enacted the gun registration law, how much political capital would you have spent in trying to defend the law? As things turned out, long gun registration helped cost the Liberals control of government in the 2006 election, partly because of a scandal involving the discovery that millions of dollars in government funds that were given to an advertising agency to encourage gun owners to comply with the registration law were instead diverted into a slush fund for Liberal politicians. Out of power, the Liberals continued to fight to defend registration, and lost the 2008 federal election and then the 2011 federal election. This last election gave the Conservative Party a majority (rather than just a plurality) in Canada's multi-party Parliament, thus enabling the repeal of registration in 2012. According to Bill Clinton, in 1996, New Jersey Governor James Florio lost his 1995 re-election bid because of Florio's defense of the state's ban on "assault weapons," and Clinton declared his own willingness to lose re-election in 1996 over the federal ban. If you were an elected official, what gun control or gun rights measures would you defend at the cost of your own reelection?
6. For more on Canadian firearms laws, see Caillin Langmann, *Canadian Firearms Legislation and Effects on Homicide 1974 to 2008*, 27 *J. Interpersonal Violence* 2303 (2012) (several different time series analysis find no beneficial impact of on homicide or spousal homicide from any Canadian gun control laws enacted in 1977 or later; homicide rates were associated with factors such as unemployment, percentage of population in low-income brackets, police officers per capita, and incarceration rates).

6. Kenya

David B. Kopel, Paul Gallant & Joanne D. Eisen, Human Rights and Gun Confiscation

26 *Quinnipiac L. Rev.* 385 (2008)

. . . When Kenya attained independence from Great Britain in 1963, it was a land rich in natural resources. From the outset, its first president, Jomo Kenyatta, ruled in a brutal and repressive manner. He abused the power of his office, rewarded his political and ethnic cronies, and eliminated political rivals. Although central state planning was implemented under a pretext of fairness and efficiency, it became the mechanism for kleptocracy. A similar pattern of corruption and ethnic rivalry persists today.

Some disarmament activists contend that cultural deficiencies of the pastoralist lifestyle, coupled with the presence of modern weapons, cause poverty and violence in Kenya. However, Kilfemarian Gebre-Wold, former director of a German-sponsored disarmament program in East Africa, acknowledged that “though many pastoralist households have small arms, the rate of crime and violent incidents is not high in their community. . . . [T]he density of weapons does not mean automatically the rise of gun-related violence.” The Kenyan government has promoted violence by denying access to land and water. It is no secret that tribalism lies at the heart of Kenyan politics, with devastating effects on the disfavored tribes.

In 2005, the governments of Kenya and Uganda began a coordinated campaign to prevent their shared border from becoming a haven of safety for civilians with weapons. Estimates of the civilian gun stock, as of August 2005, ranged from a very conservative 50,000 up to 200,000 in Kenya. On the other side of the border, in Uganda, estimates ranged from 50,000 to 150,000.

The populace is aware that government does not honor its promises of security in exchange for voluntary disarmament. As in Uganda, new classes of disarmed victims were created — not just victims of those who remained armed, but also victims of complicit government agents colluding in crimes against people who had been disarmed.

The populace is further aware that government has not kept its promises to develop the area, or even to provide basic goods and services. At the present time, with government corruption out of control, and the recent downward slide in Kenya’s economy, it is unlikely that the promises could be kept, even if the political will to do so were present.

Once the Kenyan pastoralists are disarmed and their herds stolen, and their own bodies physically injured, the pastoralists, who were already living at a subsistence level (with survival dependent on the next water hole), become destitute. No rational person, having seen her neighbors in such dire circumstances, would gamble her family’s survival on empty government promises. Although, as the disarmament community recognizes, women are often interested in peace through disarmament, they are not willing to remain passive while their families suffer and die. Thus, “[t]here are anecdotal reports of women defending themselves with guns. . . . Women often request ownership of their man’s gun if he is killed. . . .”

The Kenyan government will resort to any means to collect firearms. According to West Pokot District Commissioner Stephen Ikua, “[w]e shall use force to get them.” In March 2006, Internal Security minister John Michuki issued a shoot-to-kill directive for the entire country of Kenya, giving the police free rein against the populace.

The existence of a gun licensing program creates the legal fiction that ordinary citizens can possess a firearm, a fiction which bolsters the claim that the government will follow the proper legal procedures. Yet according to Peter Mwaura of the United Nations Environmental Programme, “[i]n practice, however, only the rich and the socially or politically correct or well connected manage to obtain firearms certificates and keep them. . . . Thus the gun law can be pretty arbitrary and subjective in its application.” Likewise, Taya Weiss of South Africa’s pro-disarmament Institute for Security Studies stated, “[v]ery few Kenyan citizens, especially those living in remote areas, meet the criteria for a gun license and can afford to pay the associated fees.”

Ordinary Kenyans are not even allowed to possess bows and arrows, and the bow laws, too, are applied discriminately. Government security agents can therefore safely assume that every ordinary person with a bow or gun lacks a license, and thus the police can shoot to kill with impunity.

If the Kenyan government had paid some attention to the needs of the people, rather than discriminating against selected tribes, conditions might not have degenerated to the point where factional fighting has become the last survival mechanism available to many pastoralists. If government would first attend to the basic life necessities of northern Kenya, survival would not necessitate weapons possession. Yet, some NGOs share the Kenyan government’s fixation with arms confiscation above all else. For example, Oxfam (which is a major supporter of two international gun confiscation NGOs—ControlArms, and the International Action Network on Small Arms) declares that what Kenya really needs is “community arms collection and voluntary arms surrender activities.”

The pastoralists of Kenya, however, have remained armed, despite almost-continuous disarmament programs for over a century. Some of the disarmament programs were accompanied by a great deal of brutality, a fact remembered by many tribal leaders. One operation conducted by the military in 1950 caused the deaths of fifty people. In addition, the government confiscated 10,000 head of cattle.

In 1961, then-Lieutenant Colonel Idi Amin of the Uganda’s King’s African Rifles crossed the border into Kenya and tortured and terrorized civilians who refused to give up their weapons. Although at least 127 men were castrated and left to die, the operation failed to disarm the Turkana people of northwest Kenya.

The unsuccessful 1984 “Operation NYUNDO” (Operation Hammer) was a brutal example of the difficulty of disarming civilians who would rather die than disarm. “Operation NYUNDO” was a collaborative effort of the Kenyan and Ugandan armies, similar to the joint campaign against civilian gun owners that began in 2005. Krop Muroto, a political activist, recalled:

No one knows to date how many people were killed in that operation that lasted three months. The community was further devastated by mass killing of their cattle.

20,000 head of cattle were confiscated, rounded up in sheds and starved to death. Among other atrocities, . . . the army used helicopter gunships, killed people and destroyed a lot of property.

Reuters reported:

Lopokoy Kolimuk, an elder in the dusty and dry village of Kanyarkwat in the West Pokot district, said the soldiers who carried out that mission were wild, beyond humanity. He said many shot Pokots [a people of western Kenya and eastern Uganda] on sight, or forced men to lie on the ground in a line as they ran across their backs. Other men had their testicles tied together and were then made to run away from each other, he said. Women were raped in front of their husbands, sometimes with empty beer bottles.

In April 2006, Security Minister John Michuki told Parliament, “[t]he Government has decided to disarm the Pokot by force. If they want an experience of 1984 when the Government used force to disarm them, then this is precisely what is going to happen. . . .”

Tapangole Lokeno, another elder, stated: “It is so fresh in our minds, so when Michuki says this operation will be worse, we just wish this world would bring us down first.” Stephen Ikua, a government spokesman, said that threats were necessary in order to get civilians to peacefully surrender their firearms. He said, “As a government, you should talk from a position of strength. You cannot come in saying you are going to respect human rights.”

In early May 2006, the BBC described the latest military operation in Kenya, code-named “Okota” [Collect], utilizing tanks, trucks, and helicopters, and taking over a local school building as a barracks for the army. In the village of about 2000 people, eight weapons were recovered. Fearing a repeat of the 1984 atrocities, 15,000 panicked people fled to Uganda with their cattle and their guns, leaving behind the aged, the infirm, and the children. In West Pokot alone, 120,000 people needed food aid, but only 68,000 received rations. Schooling was disrupted, and farmsteads were neglected.

Five weeks after the forced disarmament began, only seventy illegally possessed firearms had been recovered. Collecting a few dozen firearms seems to be reason enough for the Kenyan government to go to war against its own citizens. Apparently, confiscating a few dozen firearms is, and for decades has been, a government priority that eclipses the digging of wells, the construction of more schools, or the establishment of medical clinics. And many Kenyans seem to have the same sentiment as Charlton Heston, the former President of the National Rifle Association, who declared that the only way anyone would ever get his guns was to take them “from my cold, dead hands.”

At about the same time in mid-2006 that the United Nations Development Programme withdrew its support for the Ugandan side of the joint disarmament, the Kenyan government backed away from its own forcible disarmament program, Operation Okota. While the government is still intent on disarming civilians in the region, there have not been reports of additional violence perpetrated by the government.

Instead, Internal Security Minister John Michuki launched Kenya’s Action Plan for Arms Control and Management (KNAP) on July 14, 2006, giving civil

society and local NGOs, in lieu of government forces, greater responsibility for further disarmament. Rather than repeating his previous violent threats (which turned out to be accurate), Michuki merely stated, “[t]he Government remains steadfast in its war against illicit small arms.” Although the government of Kenya has discontinued the joint forcible disarmament exercise with Uganda, the government of Uganda continues to send its own soldiers into Kenya, where they pillage and steal cattle, while recovering small quantities of weapons.

NOTES & QUESTIONS

1. The Kenyan government at one point proposed execution by hanging as the punishment for the illegal possession of semi-automatic weapons. See NRA News, *Kenya Proposes Execution of Gun Owners*, YouTube (Oct. 7, 2009), <http://www.youtube.com/watch?v=ZknGvkySxMk> (updated Nov. 15, 2009). Assuming that one has no qualms about the death penalty, or about imposing it for crimes other than murder or treason, is the Kenyan proposal reasonable?
2. *Effects of civilian disarmament*. Based on the preceding passage (and what you have read in online Chapters 12 through 14), what effects do you predict would occur in Kenya if the government were to succeed in disarming the Kenyan population?
3. *International intervention?* Is it sometimes morally legitimate for Nation A to assist the government of Nation B in disarming Nation B’s people? Under what circumstances? Is assisting in such disarmament ever morally obligatory?
 Now consider the converse. Is it sometimes morally legitimate for Nation A to seek to arm the people of Nation B, contrary to the wishes of Nation B’s government? Is it ever morally *obligatory* to help another nation’s citizens prevent disarmament efforts by their own government?
4. Assuming one favors citizen disarmament as a general matter, is there some level of state dysfunction where the argument for disarmament fails? What are the characteristics of that dysfunction? Based on the excerpt above does Kenya exhibit those characteristics?
5. Is allowing individual (especially in failing or dysfunctional states) access to private firearms a reasonable policy? Are private arms a component of a long-term strategy for building stable and just relationships between government and citizenry? Or are private arms just a tool allowing citizens a chance to survive in emergencies caused by failed or malevolent states? For more on Kenya; See chapter 13. A. 2
6. Online Chapter 14, on Comparative Law, describes the situation in Kenya, where many pastoral tribes have been resisting government gun confiscation efforts for decades. An article in Kenya’s leading newspaper urges the government to abandon the confiscation campaigns, and instead to follow the Second Amendment model:

“How can the Government ask us to surrender our guns when we know very well that there is no security for us? If we give out our firearms, say today, who will

protect us when the neighbouring tribes strike? How about our stolen livestock? Who is going to return them to us?" Mr. Lengilikwai talks with bitterness.

In the past, critics of liberalising access to firearms have argued that they would put ordinary people's lives in peril because even squabbles in the streets or the bedroom would be resolved by bullets. Incidentally, such incidents are few and far between in the Kerio Valley despite the easy accessibility of AK-47s as well as the relatively low levels of education and social sophistication. . . . If Kenya is to achieve long-lasting stability, it ought to borrow a leaf from the US, whose constitution gives the people the right to bear arms and form militias for their own defence should the armed forces fail them, as happened in Kenya after the December elections.

Paul Letiwa, *Why Herders Won't Surrender Their Firearms Just Yet*, Daily Nation, Apr. 30, 2008. See also Ng'ang'a Mbugua, *Law Should Be Changed to Free Guns*, Daily Nation, Apr. 25, 2008 (noting success of armed defense program of the people of the Kerio Valley).

Suppose that the idea of a fundamental human right to keep and bear arms becomes as popular globally as it is in the United States. What consequences might ensue?

|| 15 ||

In-Depth Explanation of Firearms and Ammunition

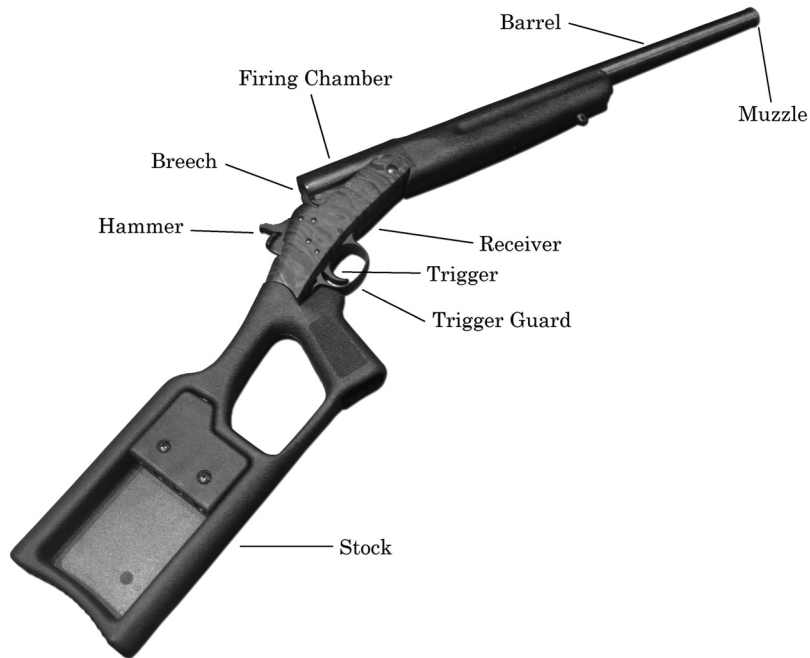
*This is online Chapter 15 of the law school casebook *Firearms Law and the Second Amendment: Regulation, Rights, and Policy*, by Nicholas J. Johnson, David B. Kopel, George A. Mocsary, and Michael P. O’Shea. The printed book, consisting of Chapters 1 through 11, is available at the [website of Aspen Publishers](#). The printed book is also available from [Amazon.com](#) and [Barnes & Noble \(bn.com\)](#). The [public website for this casebook](#) contains the four online chapters (Chapters 12 through 15), plus podcasts on each chapter, resources for student research papers, and more.*

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Chapter 1 of the printed textbook provided a brief overview of how firearms and ammunition function, the different types of firearms, the most important gun laws, and information about the beneficial and harmful uses of firearms. In this online Chapter 15, we provide a much more detailed explanation of firearms and ammunition. We also offer some basics about the many types of nonfirearm “arms.”

A. Introduction to the Parts of a Firearm

A firearm uses the energy created by ignition of a chemical compound (gunpowder) to launch one or more projectiles out of a metal tube called a barrel. Consider a simple firearm, a single-shot rifle.

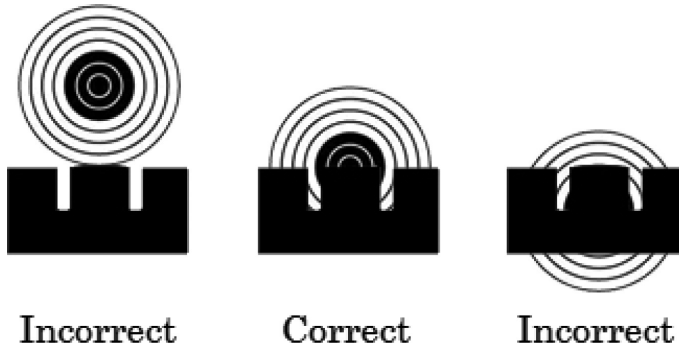


Single-shot rifle, with breech open.

The major parts of a firearm are labeled in the diagram. The firearm is fired by pressing the *trigger* with a finger. The trigger is linked to a spring-loaded *hammer*; once the trigger is pressed as far back as it will go, the hammer is released, and so the hammer is pulled forward by the spring. At the front of the hammer is the *firing pin*. When the hammer has sprung all the way forward, the firing pin strikes the *ammunition cartridge*, which is held in the gun's *firing chamber*. The impact of the firing pin ignites the cartridge (as explained further below), and the gun fires.

The cartridge consists of a metal *casing*, a *primer* (which is ignited by the blow from the firing pin), *gunpowder* (which is ignited by the primer), and a bullet — a conical or cylindrical projectile.

The ignition of the gunpowder causes an expansion of gasses that propels the *bullet* down the *barrel* and causes the bullet to fly at high speed out the barrel's open end, the *muzzle*, which has been aimed at the target. When firing the rifle, the shooter braces its *stock* against the shoulder of the same arm she uses to operate the trigger. By lining up the *sights* that are attached to the top of the rifle, the shooter can aim the rifle accurately, controlling where the bullet will strike when the gun is fired.



Incorrect and correct sight alignments for an open-style sight (typically used on handguns, but available for rifles as well). The tops of the three posts must form a line through the point of aim. In the leftmost image, the bullet will strike the target below the point of aim. In the center image, it will strike the bull's eye. In the rightmost image, it will strike above the point of aim.

Almost all the moving parts of a gun are housed in its *receiver*, which is a metal frame that surrounds the firing chamber and connects it to the barrel. The receiver contains the *action* of the gun, which is the group of moving parts that allow the gun to be loaded, fired, and unloaded. Once the bullet has been fired, the empty casing is left behind in the firing chamber. To reload the gun, the user opens the action, manually removes the empty casing from the firing chamber, and inserts a fresh cartridge in order to fire again, if she desires. The cartridge is inserted at the *breech*, the rear of the barrel.

The rifle just described is simple in its functions. As we will discuss, most modern firearms have additional features that give them greater capability than the basic single-shot rifle, while also making them more complicated. Most of these features relate to the gun's use of ammunition. Most modern firearms are *repeaters*: they can be fired more than one time before manual reloading. They have various mechanisms that allow fired cartridges to be ejected, and fresh cartridges to be moved into the firing chamber, rather than requiring the user to open up the gun and replace each fired cartridge by hand. In order to understand these features, we first need to briefly discuss ammunition and how it works.

B. Ammunition

Modern rifles and handguns use *metallic cartridges*. That is, the casing is made of metal, rather than paper or some other substance. A single unit of ammunition is called a *cartridge* or a *round*. (Below, we will explain how shotgun ammunition is different from rifle or handgun ammunition. One unit of shotgun ammunition is called a *shell*, or it may also be called a "cartridge" or "round.") Approximately 4 billion cartridges are produced commercially in the United States each year. While a serious competitive shooter may expend tens of thousands of rounds of ammunition every year in practice and competition, most gun owners consume ammunition at a much lower rate.

Ammunition is commonly sold at retail in boxes of 20 to 100 cartridges, as well as in cases of 500 or 1,000 cartridges. In the United States, ammunition is sold at gun stores, sporting goods stores, large retail stores, and gun shows. A large volume of ammunition is also sold and shipped using the Internet or mail-order catalog.



On the left, a rifle bullet. On the right, a complete cartridge (or “round”), containing the bullet. The brass casing holds the bullet and (underneath the bullet) the gunpowder. The primer is in the bottom center of case; like the gunpowder, the primer is not visible in this photo. The upper part of the case is tapered; this is common for rifle cartridges, much less so for handgun cartridges. The lead bullet is covered with copper alloy jacket. The jacketing improves performance, and reduces lead fouling in the gun.

Like manufacturers of firearms, persons or companies who wish to manufacture ammunition for sale must obtain a Federal Firearms License (FFL) from the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (which calls itself “ATF”).

No federal license is required to manufacture a firearm or ammunition for personal use. A person who wishes to sell firearms manufactured by someone else needs a FFL; a person who only sells ammunition manufactured by someone else does not.

An ammunition cartridge has four major components: the *bullet*, the *case*, the *primer*, and the *gunpowder*.

1. Bullet

Bullets are metal projectiles. Some people use the word “bullet” casually to refer to a complete ammunition cartridge (“there were no bullets in the gun”), but such language is imprecise and can lead to misunderstandings. Properly speaking, one loads a gun with *cartridges* or *rounds*, not with bullets. A bullet is simply one part of a cartridge — the metal projectile, inert in itself, that is launched at high speed from the gun upon firing.

Bullets differ in their shapes and material composition, but the vast majority consist mostly of lead. Different types of bullets are used in ammunition intended for different purposes.

For example, the most common handgun bullet shape is a *round nose*, which has good aerodynamics but is not the most effective at transferring kinetic energy to a target. *Flat-nosed* bullets, also called *wadcutter*s, are traditional for some types of target shooting because they cut a clean, round hole in a paper target that makes keeping score easy. Some shooters use *semi-wadcutter* bullets, which have a partially flattened nose that increases the bullet's striking power, but with more aerodynamic stability.



Cartridges loaded with different bullet shapes. From left to right, round-nose, hollow-point, and wadcutter bullets.

The most common type of handgun bullet for self-defense and police work, which is also very popular for hunting use, is the *hollow point*. Such a bullet has a hollow cavity in the tip that causes the bullet to flatten and expand when it strikes a target. This makes the bullet more effective at incapacitating a human adversary or game animal because it increases the amount of tissue damage caused by the bullet. It also tends to reduce the risk of *overpenetration*: a hollow point bullet is more likely to expend all its energy in its target and come to rest there, instead of piercing through the target and emerging from the other side, still traveling at a dangerous velocity.



When bullets hit their targets, the soft lead deforms. The high-performance, expensive, bullet on the left has “opened up” almost perfectly.

Hollow point *rifle* ammunition is popular for hunting small to medium game. A very few jurisdictions restrict the use of hollow point ammunition for self-defense. See N.J. Stat. Ann. §§2C:39-3f(1), :39-3g(2), :39-6f (prohibiting individuals from possessing hollow point ammunition, except on their own property or when hunting, target shooting, or traveling to and from a target range).

Most bullets are constructed of lead alloy. They are often coated with a thin jacket of copper or brass. Some bullets are made of metals other than lead, such as copper, steel, and tungsten. (See *infra*, Section D.5, for information on armor-piercing ammunition.)

Most military ammunition is *full metal jacketed*: it employs a pointed or round-nosed bullet with a copper coating that covers the entire exposed portion of the bullet. Cartridges with fully jacketed bullets are popular for practice shooting by civilians as well. The copper coating reduces the lead residue (which can impede accuracy) in the barrel when the gun is fired. Full-metal-jacket ammunition penetrates deeply into a target and does not expand when it hits (although some military rounds break into fragments when they strike a target, which can increase wounding potential).

Soft point ammunition is often used by rifle hunters. It is simply a jacketed bullet with an exposed, nonjacketed lead tip. It strikes a balance between full-metal-jacketed and hollow point ammunition, expanding more on impact than the former but penetrating more than the latter.

2. Case

The components of a cartridge are held together by a hollow *case* of brass, aluminum, or steel. After a shot is fired, the empty case remains. Repeating firearms use a mechanical protrusion called an *ejector* to remove the spent case from the gun's firing chamber in order to make room for a fresh cartridge. Handgun cases are usually straight-walled, while rifle ammunition often uses *bottlenecked* cases whose tapered shape allows large powder charges to be used and improves the loading of fresh ammunition from a magazine (see below).

A brass case recovered after firing can usually be reused. After the case is cleaned, it can be refilled with gunpowder, a primer, and a bullet to create another cartridge. This process of recycling is called *hand loading* or *reloading*.¹ Many gun owners reload their own ammunition at home, using tools that are created for this purpose. Competitive target shooters, who may fire 5,000 rounds a month in practice, reload out of economic necessity. Some hunters reload in order to produce a small number of high-quality rounds precisely tailored to particular conditions. Other reloaders simply enjoy making things.

The bottom surface (or *head*) of the case will usually be marked with the name of the cartridge it fires. For safety, it is essential that a gun only be loaded

1. Thus "reloading" has two meanings. One is the manufacture of a new cartridge from a used case. The other meaning is the placement of a fresh cartridge in the firing chamber after the gun has been fired.

with a matching cartridge. The appropriate cartridge type will be stamped on the barrel or receiver.

A firearm's caliber is essentially a measure of the diameter of the barrel and bullet that it accepts. Within a single caliber, different types of ammunition may have widely varying loads of gunpowder. For example, by far the most common type of ammunition in the United States is .22LR. (The "LR" stands for "long rifle," but .22LR is used in both rifles and handguns.) Other types of .22 caliber ammunition include the .22 Long, .22 Short, .22 Spitfire, and the .22 Winchester Magnum Rimfire (also called .22 WMR, .22 Magnum, or .22 Mag.) The .22 WMR uses much more gunpowder than a .22LR. Accordingly, if a firearm has ".22LR" stamped on its barrel, and no other caliber/type stamp, you must not use, for example, .22WMR in that gun. The extra gunpowder could expose the firing chamber to pressures for which it was not designed, thereby causing a dangerous explosion. If you ever have doubts about a cartridge's suitability for a particular firearm, do not fire the cartridge, and wait until you can ask a reliable source. As the following figure illustrates, each of these succeeding cartridges is much larger, and is much more powerful, than the one succeeding it.



Different types of ammunition. From left to right, .223 Remington, .22 WMR, and .22 LR. Note that the bullet (the top part) for the .223 Remington is only 3/1000 of an inch wider than the .22 caliber bullets. But the .223 Remington's case is much wider and larger, allowing more room for gun powder, making it far more powerful than the other two.

3. Primer

The primer has often been described as the spark plug of the cartridge. When a gun is loaded with a cartridge and the hammer falls, the gun's firing pin sharply strikes the primer. The blow causes a pressure-sensitive chemical compound in the primer to ignite and emit an instantaneous hot flash. The flash then ignites the gunpowder inside the case. The gunpowder burns in a fraction of a second, releasing expanding hot gasses, whose pressure pushes the bullet free from the case, and launches the bullet down the barrel.

Cartridges are primed in two different ways. *Centerfire priming* is used for all modern cartridges of larger than .22 caliber (as well as some smaller caliber cartridges, such as .17 caliber). In this system, the priming compound is enclosed inside a thin metal casing to form a *primer cup*. The cup, in turn, fits into a hollow pocket in the center of the bottom face of the cartridge. Thus, a primer is in line with the firing pin when a cartridge is loaded into the gun's firing chamber. When the gun's trigger is pressed, the firing pin sharply strikes the primer and compresses the priming compound, igniting it. The primer's flash passes through a *flash hole* between the primer cup and the cartridge case and ignites the gunpowder there.

The older system of *rimfire priming* does not use a separate primer cap. Instead, priming compound is applied directly to the inside of the bottom of the cartridge case, inside a cavity in the cartridge rim. The firing pin of a rimfire gun does not strike the rear of the cartridge in the center, but instead on the edge of the rim (hence the name). Again, once the firing pin impact the primer, the priming compound ignites, and in turn ignites the gunpowder, firing the round. Unlike centerfire cartridge cases, rimfire cartridge cases are not reloadable.



Rimfire vs. centerfire cartridges. At left is a round of .22 Long Rifle, a rimfire cartridge.

At right is a round of .38 Special, a centerfire cartridge, seen from below. Note the telltale, circular primer cup that sits at the bottom of the centerfire cartridge's case head. The rimfire cartridge lacks this. Instead, it has a layer of priming compound (not visible) applied to the inside of the brass rim of the cartridge.

Rimfire priming is still used for some small cartridges, including the extremely common .22 Long Rifle cartridge, introduced in 1887. Despite its name, the .22 Long Rifle is a small, inexpensive cartridge that is widely used in both handguns and rifles. It is the most popular cartridge in the world by a wide margin, used extensively for practice, small game hunting, and formal target shooting, including Olympic pistol and rifle shooting events. Approximately 2 billion rounds of .22 LR ammunition are manufactured each year in the United States. Some shooting events are divided into centerfire and rimfire divisions, corresponding to the division between the larger, more powerful centerfire cartridges and the smaller rimfires.

The most common priming compound used in ammunition today is lead styphnate. Firing ammunition with lead styphnate-based primers emits minute particles of lead compounds into the surrounding air. In indoor shooting ranges, adequate ventilation is necessary in order to prevent these lead compounds from building up. Sustained indoor exposure without ventilation could create a risk of lead poisoning. Health and environmental concerns about conventional primers have led manufacturers to develop lead-free primers that do not emit compounds containing lead or other heavy metals. Ammunition with lead-free primers is commercially available, and is gaining in popularity, but still comprises only a minority of ammunition sold in the United States.

4. Gunpowder

A major innovation in firearms technology was the development in the 1880s of modern *smokeless gunpowder*, based on nitrocellulose and nitroglycerin. Before then, all firearms were powered by *black powder*, a mixture of saltpeter (potassium nitrate), charcoal, and sulfur.

Smokeless powder is much less volatile in storage than black powder.² In addition, smokeless powder burns more uniformly and consistently, produces less smoke, and delivers far more energy when ignited, combusting in thousandths of a second. Smokeless powder made possible the development of rifle ammunition that launches bullets at more than twice the speed of sound—a far greater velocity than had been possible with black powder. It also allowed a shooter to deliver repeated fire from a single location, because his vision was not obscured by the thick clouds of smoke characteristic of black powder. Commercial ammunition today overwhelmingly uses smokeless powder.

Black powder is obsolete for most purposes, but is still used today by hobbyists and hunters, who often fire it in antique or replica firearms. For example, a hobbyist firing an exact replica of an old-fashioned flintlock rifle might use standard black powder. Modern uses of old-fashioned muzzle-loading guns are discussed below. Today, most people who shoot muzzle-loaders use one of the many black powder substitutes, which are much less volatile, and produce less smoke, than traditional black powder. Smokeless powder and black powder

2. The volatility of old-fashioned black powder is why in colonial America and the Early Republic, large quantities of black powder were typically stored in a communal “powder house,” made of brick. Chapter 3.c.1 describes the “powder alarms” that took place in 1774 when the British seized some of these American powder houses.

substitutes are nearly impossible to produce at home, while black powder is readily manufactured at home — as it frequently was before, during, and after the American Revolution.

For further information on ammunition, see the Reference page of the International Ammunition Association website, <http://cartridgecollectors.org/?page=reference>. The site also has a very long [Bibliography of books on Cartridges or Ammunition](#). La Asociación Española de Coleccionistas de Cartuchería (AECC)³ provides a tremendous amount of graphical and Spanish-language textual information at <http://www.municion.org>. For a history of black powder, see Ulrich Bretscher’s Black Powder Page, <http://www.musketeer.ch/blackpowder/history.html>.

C. *Firearm Features*

Now that we have covered the basics of ammunition, we can discuss the features of modern firearms.

1. **Firing Mechanism**

The firearm is fired by pressing the trigger with a finger. In a typical design, the trigger is connected to a mechanical linkage called a *sear*. Pressing the trigger moves the sear, which releases a spring-loaded hammer. The hammer falls, and its force causes a firing pin to strike the primer in an ammunition cartridge. (Some firearms use a similar spring-loaded mechanism called a *striker*.) In a modern handgun or rifle, the barrel is *rifled*. That means its inside surface has been cut with a pattern of spiral grooves that cause the bullet to spin around its long axis as it travels through the barrel. The rotation, like the spin on a properly thrown football, makes the bullet fly in a straighter path when it emerges from the *muzzle* of the gun — the open end of the barrel.

2. **Magazine**

Most modern firearms are *repeating arms*, or *repeaters*: in other words, they can be fired multiple times before it is necessary to manually insert more ammunition into the gun. (A “repeater” is not the same as a “machine gun” or an “automatic,” which are discussed below.) The location where a repeating arm stores its ammunition, and from which ammunition is fed during use, is called a

3. “Spanish Association of Cartridge Collectors.”

magazine. With some guns, the magazine is a hollow compartment or tube that is permanently attached to the gun. The *tubular magazine* is typical in *pump-action* and *lever-action* rifles or shotguns (discussed below).

Other guns, especially semi-automatic and fully automatic firearms, use *detachable magazines*, rectangular, parallelogram, or curved boxes that can be filled with ammunition, temporarily attached to the gun during use, and then removed when empty and replaced with a freshly loaded magazine, allowing continued firing. Another common device for storing several rounds in a gun is the *revolving cylinder* of a *revolver* handgun, discussed below.



Detachables magazines for semi-automatic firearms.

3. Safety Devices

A modern firearm will only fire when the trigger is pressed. (Older firearms were also designed to fire only when the trigger was pressed, but they lacked many of the safety features detailed below.) If the gun fires under any other circumstance (e.g., if the gun is dropped), the gun is defective, and would be the target of a product liability lawsuit. Product liability suits have driven many such defective firearms out of the market. *See* Chapter 8 (discussing product liability and other lawsuits against firearms manufacturers).

Accordingly, the most elementary safety device, found on nearly all modern firearms, is the trigger guard. The trigger guard protects the trigger from accidental motion, such as when a gun is being pulled out of a holster. The trigger guard also makes it easier for the gun user to obey one of the three fundamental rules of gun safety: “Keep your finger off the trigger until you are ready to shoot.” (The Safety Rules are discussed in the next section.)



Trigger guard.

For firearms design and for firearms user training, a key principle is redundancy. So even though keeping one's finger outside the trigger guard is excellent protection against accidental discharge (unless the firearm is defective), modern firearms typically include additional safety features.

The most common of these is called the *safety*. The safety blocks the trigger or hammer from moving. The safety is typically activated by pressing a button, small slide, or lever that is located near the action.



Button safety.



Lever safety.

When the safety is in the “safe” position, the gun will not fire even when the trigger is pressed. To fire the gun, the user must move the safety to the “fire” position.

Virtually all modern rifles, shotguns, and semi-automatic handguns have external safeties. (Glock and some other semi-automatic handguns have a different type of safety, and revolver handguns do not have safeties, as we will detail in the discussion of handguns, below.)

The safety devices discussed so far are intended to be operated while the gun is being used. For example, a bird hunter carrying a shotgun would keep the safety engaged while walking through a field, to reduce the chance of an accidental discharge if he stumbles or if his hand slips. When he needs to fire, he can quickly push the safety to the “fire” position.

An entirely different class of safety devices is employed when the gun is *not* being used. The purpose of these devices is to prevent use by an unauthorized user. The most obvious of these is a gun safe. Many gun owners store several firearms in a large safe. Alternatively, guns may be stored in a locked room. There are also smaller safes meant to hold one or two handguns.

Likewise, there are devices that can be attached to the gun itself to prevent unauthorized use. One of the simplest is a *trigger lock*, which wraps around the trigger guard, and (depending on the design of the lock and of the gun) keeps the trigger from moving, or at least from being touched.

The *cable lock* threads through the action, and sometimes also through the barrel. It prevents the action from completing its movement, and thereby renders the gun inoperable. Trigger locks and cable locks are typically unlocked with keys, although some use combination locks.



Cable lock on Hecker & Koch semi-automatic rifle.

Recently, some manufacturers have begun building firearms in which a key-controlled locking mechanism is built into the gun itself.



North American Arms offers an optional integral locking system on its semi-automatic pistols.

Since the 1990s, some researchers have been investigating much more sophisticated integral locking mechanisms, such as palm-print readers built into the grip of a handgun. Sometimes these are called *smart guns*. Thus far, no smart gun technology has become sufficiently reliable to be commercially viable. Even a 1 percent failure or delay rate would not be considered acceptable by anyone who wants the gun to be usable for self-defense, or, for that matter, by a hunter who may have a two-second window of opportunity for the right shot.

Locking devices can be defeated. A trigger lock can be smashed with a hammer, a cable lock can be cut, a safe can be broken open, and the mini-computer in a smart gun can be destroyed by baking the gun in an oven.

All of the locking devices involve tradeoffs. A gun that is locked is more secure from an unauthorized user but harder to deploy in a sudden emergency, such as a home invasion. Whether to use locks and what kinds of locks to use depend on individual circumstances and on whether the gun is intended to be available for self-defense. Finally, we caution that trigger locks are not infallible: particularly with some low-quality trigger locks, the gun can be fired anyway.

4. Firearms Safety Rules and Education

Firearms safety education stresses the importance of careful adherence to gun-handling rules to avoid accidents. While the user must also know how to operate mechanical safety devices, safety training emphasizes that reliance on mechanical devices is never a substitute for rigorously following all safety rules.

A common formulation of the elementary rules of gun safety is as follows:

- (1) *Treat every gun as if it is loaded.* So even if you are certain that a gun is unloaded, you must still obey all other safety rules.
- (2) *Always point the gun in a safe direction.* This is sometimes called the rule of *muzzle discipline*, referring to the end of the gun's barrel that is pointed toward the target. It means that under no circumstances can a gun ever be pointed at any human being, unless the gun is being used for lawful self-defense. The safe-direction rule means, too, that the user must positively identify her target, and also know what is behind it. For example, a hunter at the bottom of a hill would not shoot an animal on the crest of the hill, because the hunter would not know if there were a person on the other side of the hill, where a bullet might land.
- (3) *Keep your finger off the trigger until you are ready to shoot.* This is the rule of *trigger discipline*, and it is critical to avoid unintentionally firing the gun. Movies and television often promote irresponsible gun use by showing supposedly expert shooters violating trigger discipline. There is no reason *ever* to violate trigger discipline. Even when a gun is being drawn for instant self-defense, the proper motion is to keep the index finger outside the trigger guard until the gun is pointed at the target. With proper training, trigger discipline does *not* delay a defensive shot by even a fraction of a second.

If you currently own a firearm or think that you might wish to own a firearm, we strongly recommend that you take a firearms safety class. Indeed, even if you are certain that you will never own a firearm, safety education can be useful—

just as people who do not like swimming or boating should still know the elementary rules of water safety.

You can find classes and other educational safety materials from the [National Rifle Association \(NRA\)](#), the [National Shooting Sports Foundation \(NSSF\)](#), the [4-H Clubs](#), some sheriff offices or police departments, gun clubs, and sporting-goods stores. Many have introductory classes that can be completed in an afternoon, as well as longer classes on particular topics such as pistol or rifle shooting.

In addition, all state Fish & Game departments sponsor or oversee hunter safety classes. One is usually required to complete such a class in order to obtain a hunter safety card, which is a prerequisite for getting a hunting license. The classes are fairly elaborate, often spanning multiple days, and cover a wide range of material, including firearm safety. [The International Hunter Education Association](#) offers an online hunter safety class for free, and the class includes several modules purely on firearm operation and safety. To obtain a hunter safety card, most states require at least one in-person class session after the completion of an online class.

5. Eye and Ear Protection

When engaged in recreational shooting, a person should wear safety glasses and ear protection.



Safety glasses. Note the wrap-around design, protecting the eyes from flying debris at all angles.



Disposable foam earplugs provide hearing protection.



Ear muffs have always provided the best hearing protection. Today, electronic ear muffs are broadly affordable. The electronic speakers in muffs transmit human speech at normal levels; but when there is a sharp spike of sound — such as from a gunshot — the speakers shut down, instantly shielding the ear from the intense sound.

6. The Major Types of Firearms

A large-scale survey conducted in 1994 estimated that there were approximately 192 million functional firearms in private hands in the United States. Philip J. Cook & Jens Ludwig, *Guns in America: Results of a Comprehensive National Survey on Firearms Ownership and Use* (1996). Since then, tens of millions more guns have been added to the supply. In 2012 alone, roughly 8 million new guns were produced for domestic sale in the United States.

The total number of privately owned guns in the United States today is estimated to be more than 300 million. By way of comparison, the U.S. Census Bureau estimated that the total population of the United States as of January 2013 was 315 million.

A [2011 Gallup Poll](#) asked, “Do you have a gun in your home? Do you have a gun anywhere else on your property such as in your garage, barn, shed or in your car or truck?” Forty-five percent of American adults answered that they had a gun in the home, and 2 percent said that the gun was elsewhere on their property. (See Chapter 12 for more precise data.)

Polling-based estimates of individual or household gun ownership are probably underestimates, because some gun owners refuse to disclose themselves to a stranger on the telephone.

The vast majority of privately owned firearms fall into one of three basic categories: handguns, rifles, and shotguns.

D. Handguns

The handgun is the most controversial category of firearm, due to three traits. Unlike *long guns* such as rifles and shotguns, a handgun can be conveniently carried on one’s person for long periods of time. Handguns are also more convenient to store than long guns, and take up little room inside a dwelling or vehicle. Finally, handguns (particularly smaller models) can be carried concealed from detection by others, whereas long guns are virtually impossible to carry concealed.

On one hand, these traits make the handgun, in the words of the United States Supreme Court, the firearm that “is overwhelmingly chosen by American society for th[e] lawful purpose” of self-defense, and “the most preferred firearm in the nation to ‘keep’ and use for protection of one’s home and family.” *District of Columbia v. Heller*, 554 U.S. 570, 628-29 (2008) (invalidating a ban of handguns as a violation of the Second Amendment) (Chapter 9).

Millions of Americans are licensed to carry handguns for personal protection outside the home.

Yet the handgun also epitomizes the crime gun. At least 68 percent of all murders committed with firearms in the United States in 2013 were perpetrated with handguns. Across the board, handguns are employed more often in violent crimes than rifles or shotguns, in proportion to their numbers in circulation.

The ATF’s [Annual Firearms Manufacturing and Export Report](#) for 2012 shows that in 2012, American manufacturers produced 3,487,883 pistols and 667,357 revolvers. (The pistol/revolver distinction is explained in the next section.) Nearly 150,000 handguns were exported. The totals in the report do not include production for the United States military.

There were also over 3 million handguns imported into the United States in 2013. The leading exporters to the United States were Austria, Germany, Brazil, Croatia, and Italy. U.S. Dep’t of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Firearms Commerce in the United States Annual Statistical Update 2014*, at 5, 9.

1. Semi-Automatic Pistols

In recent years, more than three-quarters of new handguns produced in the United States have been *semi-automatic pistols*, also frequently referred to simply as *pistols*.⁴ The vast majority of handguns of this type feed their ammunition

4. Federal regulations define as a “pistol” any handgun that has a firing chamber that is “an integral part[] of, or permanently aligned with, the bore[]”, in contrast to a “revolver,” which is a handgun whose firing chambers are part of a rotating cylinder. [27 C.F.R. §479.11](#). The vast majority of handguns classified as “pistols” under this definition are semi-automatics. However, there are a few types of specialty handguns, such as derringers and single-shot hunting handguns, that are also considered “pistols.” ATF records indicate that these types of handguns represented less than 20,000 of the total output of pistols in 2008; the rest were semi-automatic pistols. In common parlance, “pistol” is often used to refer to all handguns, including revolvers. It is better usage, however, to distinguish pistols and revolvers, as the federal regulations do.

from a detachable magazine inserted in the gun's grip, although a few have magazines which are inserted elsewhere.

It is important at this point to explain the distinction between *semi-automatic* operation, which is found in many types of common pistols, rifles, and shotguns, and *fully automatic* operation, which is found in machine guns and heavier military weapons, all of which are subject to especially strict legal regulation. *Semi-automatic* guns fire only one round of ammunition per each press of the trigger. However, each time the gun is fired, the semi-automatic action uses part of the energy from firing the cartridge to automatically eject the spent casing, re-cock the firing mechanism, and load a fresh cartridge into the firing chamber. For example, in the semi-automatic pistol pictured on the next page, the energy of firing the gun causes the metal slide that forms the top of the pistol to cycle back and forth one time. The slide's motion backward causes the empty case to be ejected out of the side of the gun, and the slide's return forward brings the top cartridge in the magazine into the firing chamber, ready to be fired with another press of the trigger. Thus, the user of a semi-automatic firearm does not need to manipulate the gun by hand in order to load the next round. The gun loads itself. This is why semi-automatic guns are also often referred to as *self-loading* or *auto-loading* guns.

In contrast, a *fully automatic* gun, such as a machine gun, can fire multiple times with a single press of the trigger. The mechanism of a fully automatic firearm works similarly to a semi-automatic gun, up to the point when the returning slide loads a fresh cartridge from the magazine into the firing chamber. However, from that point, the two types of actions behave very differently. A semi-automatic firearm simply loads the fresh round and stops: the trigger must be pressed again to fire the gun. In contrast, a fully automatic firearm automatically strikes the freshly loaded cartridge with the firing pin, which fires the gun again and starts over the whole cycle of ejection and feeding described above, as long as the trigger is held back and there is ammunition in the gun. As long as the user keeps the trigger pressed, the fully automatic gun will continue to fire until all the ammunition is gone. Some automatic firearms use *burst fire*, a mode in which they fire two or three rounds per trigger press, then stop until the trigger is pressed again. However, this difference is not as important as the difference between semi-automatic action (one round per trigger press), on the one hand, and fully automatic or burst fire actions, on the other. Under federal law, any firearm that can fire more than one round per trigger press is deemed a machine gun. See Chapter 7 for the main federal law on the topic, the National Firearms Act of 1934 (NFA); see Chapter 8 for *Staples v. United States*, 511 U.S. 600 (1994) which deals with the status of a malfunctioning semi-automatic rifle that sometimes fired two rounds.

The use of detachable magazines makes reloading a semi-automatic pistol fast and simple. When the gun is empty, the slide locks back. The user can press a magazine release button or lever, causing the empty magazine to drop free. He or she can then simply insert a fresh magazine into the *magazine well*, then cycle the slide back (or depress a slide release button) to chamber a fresh round and continue firing, if desired.

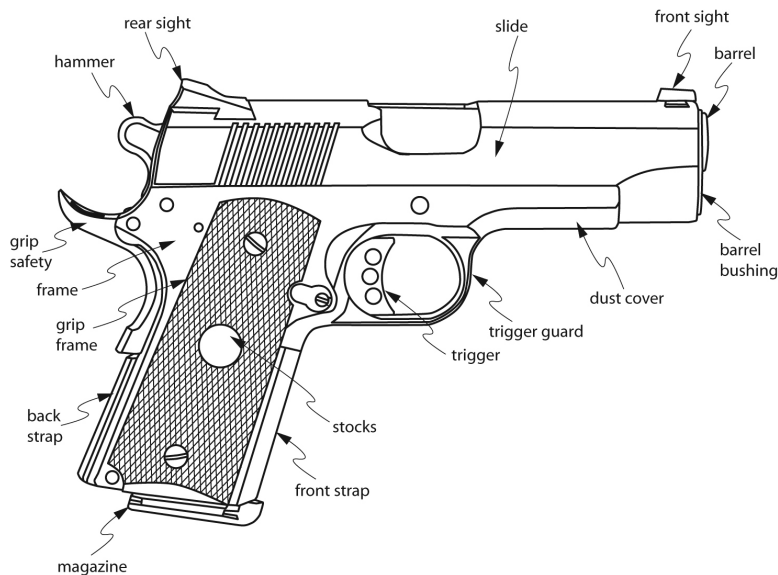
For this reason, as well as the relatively large ammunition magazine capacity of most semi-automatic pistols, this type of handgun has become the dominant type used for military issue, law enforcement, self-defense, and many types of pistol competition. The most common ammunition chamberings for full-sized, semi-automatic

pistols are 9mm Luger, .40 Smith & Wesson, and .45 ACP.⁵ Small, lightweight pistols chambered in the .380 ACP cartridge have recently gained great popularity for concealed carry. Many of these pistols weigh less than ten ounces and are no larger in size than a typical wallet. Finally, numerous semi-automatic pistols used for target shooting and recreation are chambered in the .22 Long Rifle cartridge.

The typical magazine capacity for today’s full-sized semi-automatic pistols is 11 to 19 rounds, although compact or sub-compact pistols typically have fewer, sometimes as few as six.

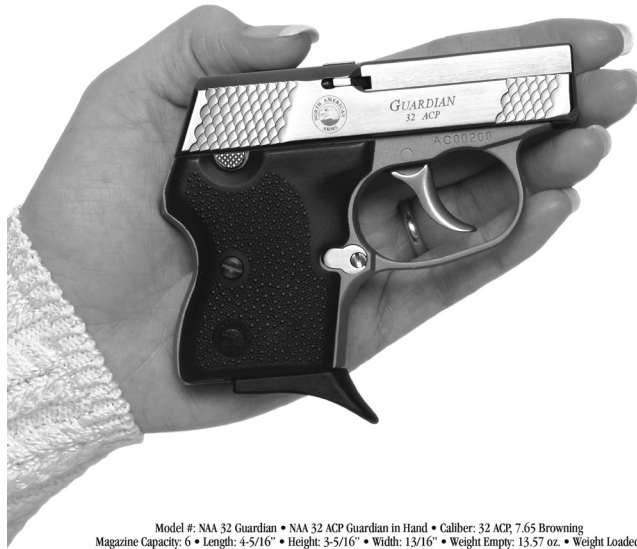


This .45 caliber semi-automatic centerfire pistol is made by Colt’s Manufacturing. It is a “Model 1911,” meaning that its design is based on the Colt .45 pistol invented in 1911. The 1911-type pistol has remained popular for over a century. Today, it is manufactured by many different companies, and remains one of the most popular pistols for self-defense and target shooting.



The major external parts of a semi-automatic handgun (a/k/a pistol).

5. “ACP” stands for “Automatic Colt pistol.” Semi-automatic pistols are sometimes called “automatics,” even though their action is semi-automatic, not automatic.



Model #: NAA 32 Guardian • NAA 32 ACP Guardian in Hand • Caliber: 32 ACP, 7.65 Browning
 Magazine Capacity: 6 • Length: 4-5/16" • Height: 3-5/16" • Width: 13/16" • Weight Empty: 13.57 oz. • Weight Loaded:
 14.86 oz. Barrel Length: 2-3/16" • Sights: Low profile fixed • Rifling: 1 in 15", RH, 6 Groove • Trigger Pull Avg.: 10 lbs.

This .32 caliber semi-automatic pistol from North American Arms is considered an “ultra-compact” because of its small size. If carried for protection, it would be put in a small holster, and the holster would be attached to the inside of a belt, or placed into a pocket or purse.

2. Revolvers



The two main types of revolvers. Left: Double-action revolver (Smith & Wesson Model 19). Right: Single-action revolver (Colt Single Action Army, colloquially known as the “Peacemaker”). An observer will note that on any single action, the trigger will be very close to the back of the trigger guard because the trigger pull has only to release the already cocked hammer, while on a double action the trigger pull must pull the hammer back.

The first commercially viable *revolvers* were produced by [Samuel Colt](#) in the 1830s, and revolvers are still popular for many purposes. These handguns carry their ammunition in chambers cut into a revolving cylinder that is located

behind the barrel of the gun. Working the gun's action rotates the cylinder, causing the next chamber to come into line with the barrel and hammer, allowing the user to fire the round loaded in that chamber. While revolvers of the twenty-first century take advantage of improvements in metallurgy, the basic design has changed little since the late nineteenth century.

Revolvers are generally simpler to load, operate, and unload than semi-automatic pistols. For many users, this simplicity, combined with their greater reliability, is an important asset. Some of the best-selling revolvers today are small, lightweight guns with short "snubnose" barrels, often used for concealed carry. Revolvers with especially long barrels are popular for target shooting, or informal "plinking." These can be chambered in the .22 Long Rifle rimfire cartridge or in centerfire calibers.

Finally, handgun hunting is lawful in every state, and for hunting, revolvers are far preferred to semi-automatic pistols, because revolvers are sturdier for accommodating the large powder charges that are necessary to fire a large bullet at hunting distances. Hunting revolvers are long barreled and bulky and generally weigh in excess of three pounds. They are frequently used with a mounted telescopic sight. It is also common for hunters who may be carrying a rifle or shotgun for actual hunting to carry a revolver as a sidearm for self-defense, in case of an attack by a bear or other large predator.

In earlier generations, revolvers were the most common type of handgun produced in America, and were standard sidearms for police. However, a major shift to semi-automatic pistols occurred in the final quarter of the twentieth century. Although semi-automatic pistols comprised only 28 percent of new handguns produced in the United States in 1973, semi-automatics today account for more than 75 percent of handguns produced domestically. Today, the large majority of all police officers use semi-automatic pistols as sidearms.

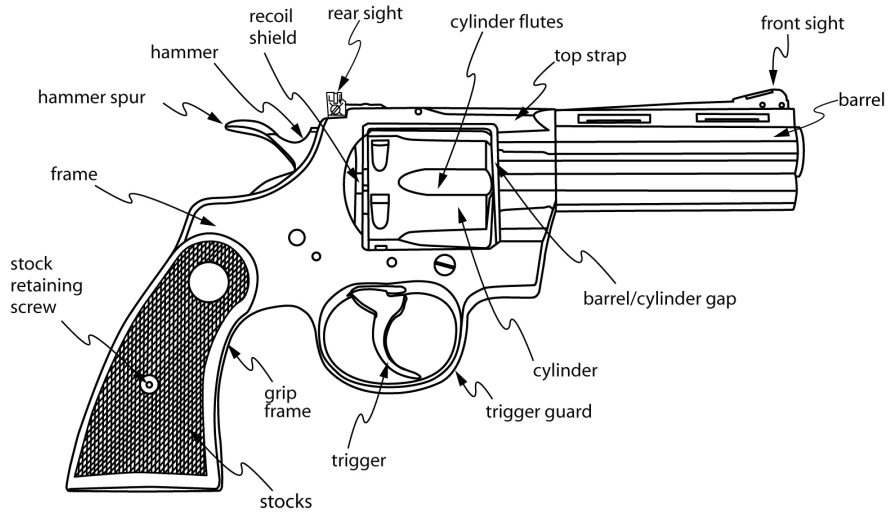
Modern centerfire revolvers typically hold five or six rounds of ammunition, although some models hold more. Rimfire revolvers can hold ten or more rounds.

To remove empty shells from a revolver cylinder, the user presses an *ejector rod* on the front of the cylinder. The rod pushes the empty cases out the back of the cylinder.

The most common centerfire chamberings for revolvers are the .38 Special and the more powerful, high-velocity .357 Magnum, introduced in 1935.⁶ For hunting deer and larger game, popular revolver cartridges include .357 Magnum, .44 Magnum, and .500.

Revolvers divide into two categories according to how the action is operated.

6. Revolvers chambered for the .357 Magnum can also chamber and fire .38 Special cartridges. The reverse is *not* true. A gun that has a ".38 Special" stamp on the barrel must never be loaded with .357 Magnum. "Magnum" is a term of art in cartridge manufacture indicating that the cartridge has a relatively large amount of gun powder for its caliber.



The major external parts of a revolver.

a. Single-Action Revolvers

The first revolvers were *single-action revolvers*, such as the Colt Navy Model of 1851 and the famous Colt Single Action Army (“Peacemaker”) of 1873, popularized for modern audiences by Western movies and television programs. The user of a single-action revolver must cock the gun’s hammer by hand before firing each shot. Cocking the hammer rotates the cylinder and brings a fresh round under the hammer to be fired. Pressing the trigger simply drops the cocked hammer to fire the gun—a single action. Single-action revolvers are slower to load and unload than any other type of repeating handgun. Once all the cartridges are fired, the revolver is unloaded by using a rod to punch the fired cases free of the cylinder, one at a time, through the revolver’s loading gate. The revolver is reloaded through the same gate.

Although obsolete for self-defense purposes, single-action revolvers remain in production, and are popular for recreational shooting and handgun hunting. Single-action revolvers are also required equipment for the sport of cowboy action shooting, in which participants dress up in historic American Western garb and shoot themed target courses with firearms of nineteenth-century design. See Abigail A. Kohn, *Shooters: Myths and Realities of America’s Gun Cultures* (2004).

b. Double-Action Revolvers

Double-action revolvers date from the 1880s. Pressing back the trigger of a double-action revolver performs two actions: it cocks the hammer back (thereby rotating the cylinder), then drops the hammer to fire the gun. To fire again, the user simply presses the trigger again. Cocking by hand is not necessary, although most double-action revolvers can also be manually cocked like a single-action.

Most double-action revolvers have a latch or button that allows the whole cylinder of the handgun to swing out from the gun frame, so that the user can access all of the chambers in the cylinder at the same time. This makes double-action revolvers faster to load and unload than single-action revolvers, though still slower than semi-automatic pistols.

3. Legitimate Uses of Handguns

Handguns are commonly owned and used for home defense, concealed carry, recreational target shooting, competition, and hunting.

Handguns are more likely to be acquired for the purpose of self-defense than are long guns such as rifles and shotguns. Surveys consistently report that the majority of handgun purchasers are motivated at least in part by personal protection. Cook & Ludwig, *supra*. In a 1998 National Gun Policy Survey conducted by the National Opinion Research Center, 65 percent of handgun owners reported protection against crime was one of their reasons for owning a gun.

Americans hold at least 8 million active, state-issued permits to carry concealed handguns for self-defense outside the home. U.S. Gov't Accountability Office, *States' Laws and Requirements for Concealed Carry Permits Vary Across the Nation*, GAO-12-717, at 3 (July 2012). [Most states today will issue](#) a permit to carry a concealed handgun to an adult who passes a fingerprint-based background check and a safety class. (Chapter 1 details how some states vary from the standard practice.) Licensed carry provides a growing consumer market for small, easily carried handguns.

Many modern handguns are constructed in part from lightweight plastic polymers, rather than metal. As a result, these guns are more comfortable for long-term carry, and are popular with both police and ordinary citizens. By federal law, the guns must include at least four ounces of metal, and the shape of the metal must visibly show a gun to x-ray metal detectors. *See* Chapter 8.



The frame of this pistol is made from plastic polymers. Note the double trigger, a safety mechanism on some modern pistols. The forward trigger is a safety. The rear trigger operates the gun like a standard trigger. To fire the gun, the shooter presses both triggers in one continuous motion.

Another popular use for handguns is target shooting. There are 18.4 million Americans who “currently participate” in target shooting with handguns, according to a [Harris Survey](#) for the NSSF.

Informal target shooting or “plinking” can be conducted at commercial shooting ranges and clubs, at public ranges, on undeveloped public lands, or on private property. Organized target shooting with handguns takes numerous forms. In bulls-eye competition, participants stand in place and shoot at paper targets up to 50 yards away.

In action pistol shooting, participants move through a course set up to simulate defensive shooting scenarios, and are scored based upon time and accuracy in shooting “bad guy” targets, with large penalties for shooting the wrong target.

Target pistol shooting is an international sport, with Olympic competition, and indeed was one of the original sports of the modern Olympics.

Hunting with handguns is allowed in every state, generally as part of the general firearms hunting season. All types of land animals can be successfully hunted in this way. For larger game, hunting handguns are typically large and powerful revolvers, often mounted with a telescopic sight. Scopes are also popular for handguns that are used for target shooting.



Ruger Mark III .22 Caliber Semi-automatic pistol, with scope.

4. Criminal Uses of Handguns

Gun crime is predominantly committed with handguns. Of 12,253 murders in the United States in 2013, 8,454 (over two-thirds) were committed with firearms, and of those, at least 5,782 (68 percent of firearm murders) were committed with handguns. Similarly, in 1997 interviews of prison inmates, 18.4 percent of state prisoners and 14.8 percent of federal prisoners reported being armed with a firearm during the offense for which they were incarcerated. Of those

offenders who were armed, more than 80 percent reported being armed with a handgun. Thus, while handguns comprise a (large) minority of privately owned firearms, they are disproportionately used in gun crimes.

E. Rifles

The ATF’s Annual Firearms Manufacturing and Export Report for 2012 shows that in 2012, American manufacturers produced 3,168,206 (not including rifles for the U.S. military). Of those rifles, 81,355 were exported. The ATF’s Firearms Commerce in the United States 2014 Annual Statistical Update shows that 1,243,924 rifles were imported into the United States in 2012, with Brazil, Canada, and Russia the leading sources.

Federal law defines a rifle as:

a weapon designed . . . and intended to be fired from the shoulder and . . . to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single press of the trigger.

[28 U.S.C. §5845\(c\)](#). Thus, a rifle is defined by two main traits.

- It is a *long gun*: it has a stock and is designed to be used with the stock braced against a shoulder.
- And it has a *rifled bore*: the inside of the gun’s barrel is cut with a pattern of spiral grooves that rotate the bullet as it travels down the barrel.

The parts of the barrel that do not have the groove cuttings are called the *lands*. Caliber is a measure of barrel diameter from the lands. The rotation, like the spin on a properly thrown football, makes the bullet fly in a straighter path when it emerges from the muzzle of the gun—the open end of the barrel. Most modern handguns have rifled bores as well.

Most rifles today fall into a few common types.

1. Bolt-Action



Bolt-action rifle.

Bolt-action rifles, introduced as military weapons in the late nineteenth century, are now the type of rifle most commonly used for hunting deer and other large game. Approximately 44 percent of the rifles purchased in the United

States in the first four months of 2010 were bolt-action rifles. Debbie Thurman, *Target Long Guns*, Shooting Indus., Aug. 2010, at 33, available at <http://fmgpublications.ipaperus.com/FMGPublications/ShootingIndustry/Aug2010>.

A bolt-action rifle holds several cartridges in its magazine. By manually lifting a handle attached to the bolt, pulling the handle back, and then returning the bolt to its starting place, the user can eject an empty case from the firing chamber, and load a fresh round into the chamber from the magazine.

Along with single-shot rifles (discussed below), bolt-action rifles are usually the most accurate, especially at long distances.

2. Semi-Automatic

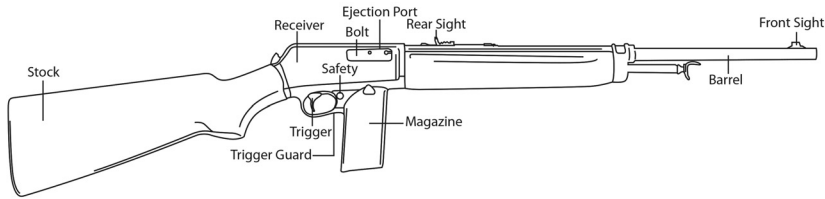
The other leading type of rifle is the *semi-automatic* (also called *self-loading*) rifle. In recent years, sales of semi-automatic rifles have been comparable to bolt-action rifle sales: about 42 percent of the rifles sold in early 2010 were semi-automatic. *Id.* A semi-automatic rifle functions in a manner similar to a semi-automatic pistol, discussed in Section D.1., *supra*.

Some of the energy produced by the burning gunpowder pushes the bullet forward, while other energy dissipates in other directions, and is felt by the user as recoil. However, the semi-automatic also uses some of this energy — either from the recoil or from a portion of the burning gas — to cycle the rifle’s action. Typically, the bolt moves backward inside the rifle’s receiver, then returns back into place. The bolt’s movement automatically ejects the now-empty cartridge case, cocks the hammer or other firing mechanism, and loads a fresh cartridge into the firing chamber, ready to be fired with the next press of the trigger.

Semi-automatic rifles store and feed their ammunition from a magazine. Some use fixed internal magazines that are part of the rifle; these are loaded by inserting ammunition through the top of the gun or into a tube that runs parallel to the rifle’s barrel. Other semiautomatic rifles use *detachable* magazines that can be quickly swapped out when empty and replaced with a new, loaded magazine.



A pair of .22 caliber semi-automatic rifles. This is the same gun, in two different configurations. The one in back has a traditional wood stock, the one in front has a modern plastic polymer stock. The black gun also has a rail, onto which a scope can be mounted, and it is a muzzle brake (mounted on the muzzle) which stabilizes barrel vibration, so that the user can stay on target for the second shot.



The major external parts of a semi-automatic rifle.

Some of the most popular models of semi-automatic rifles are chambered in the .22 Long Rifle rimfire cartridge, and are used for recreation, target shooting, training new shooters, and hunting small game. Millions of relatively inexpensive self-loading .22 rifles have been sold.



In this rifle scope, the dial on the left is used to adjust magnification, from 2X up to 15X. The two dials on the right are used to make small vertical and horizontal adjustments, so that the center of the scope points exactly to the barrel's point of aim. The scope can be attached to a rifle by a pair of mounting rings on the top of the rifle (not shown).

Because the use of recoil energy or diversion of gasses in the semi-automatic action significantly reduces felt recoil, semi-automatics can be easier to use by persons who do not have great upper-body strength. For all users, the reduced recoil helps keep the muzzle on target, increasing the accuracy of a second shot. Many hunters trade off the long-range accuracy of a bolt-action for the better second-shot accuracy of a semi-auto, especially at medium or shorter ranges. The reduced recoil and greater accuracy for second or subsequent shots also have obvious self-defense utility.

In addition, firearms with detachable magazines (that is, most semi-automatic rifles and handguns, and some bolt action rifles) can be usually reloaded more quickly than other firearms, particularly by nonexperts. Although most gun fights are over after just a few shots, many police and citizens prefer the ability to quickly reload if necessary.

An increasingly prominent and controversial category of semi-automatic rifle consists of those that look like fully automatic military rifles. For example, to most observers, the semi-automatic AR-15 rifle appears identical to the automatic M-16 rifle, which has been a standard U.S. military rifle. Indeed, many of the components—such as the barrel or stock—are identical. The important place where they differ is the firing mechanism. While the AR-15 can only fire semi-automatically, the M-16 can fire automatically *or* semi-automatically. The choice is controlled by an external selector switch on the receiver. In the twenty-first century, unlimited automatic fire has been eliminated for most U.S. military rifles. Instead, the selector switch is used to choose one-shot semi-automatic fire, or an automatic burst of three rounds.

Lawful AR-15 type semi-automatic rifles are made by many manufacturers, and often are carried in law enforcement patrol cars as backups to the officers’ sidearms. Such rifles are also purchased by private citizens for personal defense. They are the primary type of rifle used in organized centerfire rifle-shooting events such as NRA High Power Rifle competition. Today, they are “a mainstay for competition, self-defense and, most recently, many flavors of hunting.” Michael Bane, *AR Rifles in the Hunting Woods*, *Outdoor Life*, Sept. 18, 2007, <http://www.outdoorlife.com/node/21010945>. The AR-15 and similar rifles are “the guns of choice for many hunters, target shooters and would-be home defenders.” Andrew Park, *A Hot-Selling Weapon, an Inviting Target*, *N.Y. Times*, June 3, 2007, at 31. ATF records indicate that more than 400,000 AR-15 type rifles were produced for sale in the United States in 2008.



AR-15-type semi-automatic rifles.

While the AR-15 type rifles are the most common in their category, there are many other popular similar rifles, such as the Ruger Mini-14 and Mini-30, and various models from foreign companies, such as Switzerland’s Sig-Sauer.

The AK-47 (and its descendants, the AK-74 and AKM) is an automatic that is the most common rifle in much of the world. Designed for the Soviet Union and its allies by Mikhail Kalashnikov in 1947, the AK-47 is extremely durable and reliable, even under very adverse conditions, such as being exposed to a sandstorm. Semi-automatic variants of the Kalashnikov design have been popular in the American market.

Semi-automatic rifles that have a military or futuristic appearance are dubbed “assault rifles” by gun-control advocates, or “modern sporting rifles” (MSRs) by the American firearms industry. In the last several years, these types of rifles have been the leading type of rifle sold in the United States. Today, as historically, the overwhelming majority of civilian rifles are derivative of military designs. *See* National Shooting Sports Found., Modern Sporting Rifle Facts, <http://nssf.org/msr/facts.cfm>.

Several states have outlawed “assault rifles.” For example, New Jersey prohibits the possession, by most private citizens, of more than 50 different named semi-automatic firearm models, including the AR-15, and “substantially identical” copies of those firearms. N.J. Rev. Stat. §§2C:39-1w(1), (2), :39-5f. California prohibits the possession of a list of specific named “assault weapons,” and also defines as an “assault weapon”—and thus also prohibits possession of—any rifle with one or more of a list of features such as a pistol grip, a folding or collapsible stock, a flash suppressor attachment to the muzzle, and other features. Cal. Penal Code §12276.1.⁷



Sig-Sauer SIGM 400 semi-automatic rifle.



Sig-Sauer SIGM 400 Hunter semi-automatic rifle. Same gun as above, except with some features (e.g., camouflage, fixed shoulder stock) preferred by many hunters.

7. The legal category of prohibited “assault weapons” is predominantly composed of “assault rifles” but may also include a few models of disfavored handguns or shotguns. Hawaii bans “assault handguns,” but not rifles or shotguns.

From 1994 to 2004, United States federal law contained a similar set of restrictions. The Public Safety and Recreational Firearms Use Protection Act, formerly at [18 U.S.C. §922\(v\)](#) (1994), prohibited the manufacture for sale to private individuals of defined “assault weapons,” including the AR-15. The federal ban also prohibited the manufacture for sale to private individuals of detachable rifle or handgun magazines holding more than ten rounds. *Id.* §922(w). However, the federal assault weapons ban included a sunset clause, which caused the law to expire by its terms on September 13, 2004, ten years after its passage. Today, these rifles are no longer specially regulated by federal law, although they are, like other firearms, regulated by the federal Gun Control Act of 1968 (Chapter 8). Six states specially regulate or prohibit these rifles (California, Connecticut, Maryland, Massachusetts, New Jersey, New York).

3. Lever-Action



Winchester Model 1873 lever-action rifle.

Lever-action rifles, the first repeating rifles, were introduced before the American Civil War. The user can manually eject a spent round and chamber a fresh round by manipulating a lever assembly attached to the rifle’s trigger guard. Lever-action rifles, such as replicas of the famed Winchester 1873 rifle, are still fairly popular today for hunting. They are widely used in the self-consciously nostalgic sport of cowboy action shooting, in which participants wear Western clothing and shoot cowboy-themed target courses using firearms of nineteenth-century design.

4. Single-Shot

Finally, *single-shot rifles* are still produced, and are simple and often economically priced. (This chapter began with a diagram of such a gun.) After firing, the cartridge must be removed or ejected from the breech of the rifle and replaced by hand. They are often highly accurate for hunting and for long-distance target shooting.

The *pump action* is common for shotguns and is discussed below. Pump action rifles exist, but they are not as common as other rifle actions.

5. Characteristics of Rifles

Rifles have greater range and accuracy than either handguns or shotguns. Rifles can be fired more accurately than handguns because they have longer barrels

and are braced against the shoulder for firing. In a handgun, one or two hands hold the grip. There is thus one point of contact for stability. For a long gun, there are two points of contact: the stock against the shoulder and the nontrigger hand holding the fore-end of the gun. A pistol grip placed just behind the trigger guard can provide a third point of stability for a long gun. Many long guns have pistol grips. Rifles are more accurate than shotguns because the rifling in the barrel makes the conical or cylindrical bullet more aerodynamically stable. (Shotguns, discussed below, generally fire multiple spherical pellets, which are not nearly so aerodynamically stable.)

Rifles are also generally more powerful than handguns. Indeed, most types of centerfire rifle ammunition deliver dramatically more kinetic energy than common handgun rounds. Consider the example of an ordinary bolt-action deer-hunting rifle in a popular medium game cartridge, the .270 Winchester, introduced in 1925. At the time of this writing, in most parts of the United States, such a hunting rifle can be bought new for \$500 to \$900 (although custom or heavily modified rifles can cost much more). The .270 Winchester launches a 150-grain⁸ bullet at a velocity of 2,800 feet per second (more than 2.5 times the speed of sound), delivering more than 2,000 foot-pounds of kinetic energy to a target at 100 yards distance from the muzzle. When fired from a stable rest, with a telescopic sight, such a rifle can often place a group of three shots within a one-inch diameter at 100 yards.

Compare this with a handgun firing a bullet of similar weight. Even a fairly powerful handgun cartridge, such as the .40 Smith and Wesson cartridge, widely used by American law enforcement agencies, launches a bullet of similar weight, 155 grains, at a velocity of only 1,200 feet per second (slightly more than the speed of sound), delivering about 330 foot-pounds of kinetic energy at 100 yards distance — less than one-sixth the energy of the rifle. (See Chapter 11, Exercise: Ammunition-Based Controls, for more ballistic information of common ammunition.)

Moreover, even a skilled pistol shooter would have difficulty keeping a group of shots within one inch at 25 yards with a typical police or self-defense handgun; conversely, a rifle shooter can produce such accuracy with relative ease.

The ammunition capacity of rifles varies widely. Bolt-action rifles hold from 4 to 6 cartridges or sometimes more. Lever-action rifles can range from 6 rounds up to a dozen or more. Semi-automatic rifles use magazines that can range from 5 rounds' capacity up to 20 or 30 rounds. (Specialized magazines with very high capacities of up to 75 or 100 rounds are available for some semi-automatic rifles.)

Some of the most common and popular rifles are rimfire rifles, particularly in the .22 Long Rifle chambering. The two most popular semi-automatic .22 rimfire rifles, the Marlin 60 (introduced in 1960) and the Ruger 10/22 (introduced 1964), have together accounted for more than 15 million rifles sold. These rifles are commonly used for target shooting, practice, and small-game hunting.

8. A “grain” is 1/7,000 of a pound, or approximately 0.0648 gram. Grains are used for measurement of bullet weight, and for gunpowder. The term originally referred to the approximate weight of one grain of wheat.

6. Legitimate Uses of Rifles

As noted above, rifles are standard equipment for hunting land animals. They are also increasingly popular for police work and self-defense. Target shooting with rifles takes a wide range of forms, with the apex being the National Matches held every year at Camp Perry, Ohio.

A NSSF [report](#) indicated that about 14 million Americans hunt in a given year, and about 21 million hunted at least once in the last five years. A [Harris Survey](#) for the NSSF reported that 14.8 million Americans “currently participate” in rifle target shooting. According to one NSSF survey, an estimated 10.6 percent of American adults engaged in target shooting with a rifle in 2009.

7. Crime with Rifles

Rifles are the type of firearm that is least commonly used in violent crime. In 1997 interviews of prison inmates, only 1.3 percent of state and federal prisoners reported being armed with a rifle during their offense of conviction. Bureau of Justice Statistics, U.S. Dep’t of Justice, *Firearm Use by Offenders*, NCJ 189369 (Nov. 2001). However, the power of rifles means that rifle wounds are more likely to be fatal than handgun wounds.

Rifles have figured prominently in political assassinations. In the 1960s, President John F. Kennedy and civil rights leader Rev. Martin Luther King, Jr., were both killed by assassins firing rifles from concealment. Today, one challenge of protecting dignitaries from assassination stems from the threat posed by potential assassins armed with rifles.

F. Shotguns

Shotguns are the third major category of common firearms. As of 1993, the ATF estimated that Americans owned 66 million shotguns. The ATF’s Annual Firearms Manufacturing and Export Report for 2012 shows that in 2012, 936,010 shotguns were manufactured in the United States; 42,858 were exported. The ATF’s [Firearms Commerce in the United States 2014](#) Annual Statistical Update shows that 936,235 shotguns were imported into the United States in 2013, with Turkey, China, Italy the leading sources.

Federal law defines a shotgun as a gun that is

intended to be fired from the shoulder . . . [and uses] the energy of the explosive in a fixed shotgun to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

[28 U.S.C. §5845](#)(d). Thus, a shotgun is a long gun with a *smooth bore*, a barrel whose interior lacks the spiral rifling grooves found in rifles and handguns.

1. Shotgun Shells

Shotguns use ammunition that differs in several respects from handgun or rifle ammunition. Shotgun ammunition takes the form of cylindrical *shot shells* with plastic cases, instead of the metallic cases characteristic of handgun and rifle cartridges.



Shotgun shells, pictured next to rifle and handgun cartridges for scale.

A typical shot shell is filled with round, metal *shot pellets* that are released when the shell is fired. Payloads of shot range from *birdshot* loads, which fit hundreds of tiny pellets into a single shell, to *buckshot* loads, which use much larger and heavier pellets, sometimes as few as eight or nine pellets per shell.

Shotguns are commonly used for bird hunting. Larger loads with fewer pellets would be used for bigger birds, such as geese, while loads containing tiny pellets would be standard for small birds. The largest pellets (buckshot) are used for hunting deer or for police work and self-defense.

Other than the differences in casing, and the use of round pellets rather than conical bullets, shotgun ammunition works the same as rifle or handgun ammunition.

Traditionally, shot pellets have been made of lead, like most handgun and rifle bullets. However, concern about the effects of ingested lead on animals has led to restrictions on its use in hunting. In 1991, the U.S. government banned the use of lead shot while hunting waterfowl in the United States. [50 C.F.R. §§20.21\(j\)](#), 20.134. Ammunition manufacturers now sell a variety of shotgun shells loaded with nonlead shot composed of other metals, such as bismuth, tin, steel, and tungsten. These nonlead alternatives are widely used for shotgun hunting today, although some argue that they remain inferior to lead shot in performance and/or price.

Not all shotgun shells contain multiple pellets; they can also be loaded with a single, large-bore projectile, a *shotgun slug*. Shooting slugs lets the shotgun function similarly to a powerful rifle at short ranges. The typical use for a shotgun slug would be deer hunting, police work, or self-defense. (Some specialty shotguns for slugs may have rifling inside the barrel, which by federal law makes them “rifles,” although everyone still calls them “shotguns.”)

2. Shotgun Gauges

Different shotguns use shells of differing sizes, corresponding to the width of the shotgun's barrel bore. The size of a shotgun's bore, and thus the size and power of its ammunition, is frequently expressed as its *gauge*, a somewhat archaic form of measurement compared to the usual fractions of an inch (or millimeters) that are used to measure rifle and handgun calibers. A shotgun's *gauge* is the number of lead balls, of the same width as the bore of the shotgun, that are required to equal one pound of weight. Thus, a 12 gauge shotgun has a barrel of the same width as a lead sphere that weighs one-twelfth of a pound. This method of measurement yields the counterintuitive result that the *lower* a shotgun's gauge number, the *larger* and more powerful its ammunition. The most common type of shotgun in the United States is the 12 gauge shotgun, followed by the 20 gauge shotgun. Other shotguns are 16 gauge, 28 gauge, and the smallest standard shotgun is the .410. Ten gauge shotguns exist, but were more popular in the past than today. To make things more confusing, the small is the .410, which is named for the measurement in inches of its barrel's diameter, not a gauge measurement. A 12 gauge shotgun has an 0.73 inch barrel diameter.

3. Types of Shotguns



Pump shotgun.

Like rifles and handguns, shotguns are available as single-shot guns, although they are less popular than repeating shotguns.

The most common repeating shotgun in the United States is the *pump action*. The pump shotgun stores shells in a tubular magazine underneath the barrel. Wrapped around the magazine is a wood or plastic fore-end, which can be manually slid (“pumped”) backward and then forward. To eject a fired shell from the firing chamber and load a fresh one into the chamber from the shotgun’s tubular magazine, the user pumps the fore-end. Pump shotguns typically hold from four to eight shells. They are less expensive to manufacture than semi-automatic or double-barrel shotguns. They are widely used for police work, self-defense, hunting, and rural control of pests and predators.

Semi-automatic shotguns function similarly to other semi-automatic guns. When the shotgun is fired, the recoil energy or gas released by firing causes a reciprocating bolt to eject the spent shell and load a fresh shell into the firing chamber, ready to be fired with another press of the trigger. Unlike semi-automatic pistols and rifles, semi-automatic shotguns rarely use detachable ammunition magazines. As with pump-action shotguns, the ammunition supply of two to eight shells is typically stored in a fixed magazine tube that runs underneath the shotgun’s barrel. The few shotguns that use a detachable box magazine, or a revolving cylinder, for ammunition storage have been subjected to special controls. *See* Chapter 8.

Double-barreled shotguns have no magazine but feature two adjacent barrels that can each be loaded with a shell, allowing a total of two shots before reloading. “Over/under” double-barrel shotguns place one barrel atop the other. “Side by side” shotguns orient the barrels alongside one another. Double-barreled shotguns are popular for skeet, trap, and sporting clays (below). Double-barreled shotguns are offered at a range of price points, but high-quality examples are very expensive, often boasting fine wood and engraving. Such shotguns are used mainly for sporting purposes such as competition and bird hunting. Many countries with very restrictive firearms laws, such as the United Kingdom, impose relatively less regulation on the private possession of double-barreled shotguns. *See* Chapter 14.

4. Legitimate Uses of Shotguns

Shotguns are commonly used for hunting, especially bird hunting; for shooting sports such as trap shooting, skeet shooting, and sporting clays; for self-defense; for police work; and for protection from threatening or pest animals in rural areas. They also play a limited role in military operations; they are useful for security duty and for fighting in buildings or other close quarters. Some states, such as Illinois, Massachusetts, New Jersey, and Ohio, disallow the use of rifles for hunting deer. In these areas, it is common for deer hunters to employ shotguns loaded with buckshot, or, most commonly, with slugs.

Shotgun sports are the most popular organized shooting sports in the United States. In addition to hunting, popular shotgun sports are trap shooting, skeet shooting, and sporting clays. Trap and skeet shooting were both created to simulate bird shooting. In both sports, the shooter tries to hit flying clay disks. Trap and skeet shooting take place on specially constructed target ranges; the differences between trap and skeet are whether the shooter stays in a single spot

or rotates among five different shooting positions along about a quarter of a circle, and whether the clay “birds” are released from one fixed position or two. The shotgun sport of sporting clays, invented in the latter twentieth century, also involves firing at flying clay targets. However, the sporting clays course involves ten different shooting positions in a large outdoor area. Participants shoot clay targets in a variety of natural settings that present differing terrain and obstacles. At each position, the shooter will fire at two different flying clays. While the flight paths of the clays in trap and skeet are relatively fixed, the flying patterns in sporting clays are much more diverse. One sporting clays stand might involve a first shot at a clay bouncing along the ground, and a second shot at a clay flying almost straight up into the air. An estimated 8.4 million Americans participate in the shotgun sport of sporting clays. Comparable numbers participate in the traditional shotgun sports of trap shooting (7.58 million) and skeet shooting (6.98 million). National Shooting Sports Found. Survey, Sport Shooting Participation in the United States 2009. Another survey estimated that 4.9 million Americans participate annually in waterfowl hunting, which employs shotguns. Forest Serv., U.S. Dep’t of Agric., & Univ. of Tenn, 1999-2002 National Survey on Recreation and the Environment.

Shotguns can be used for military purposes, particularly at close range. They were common in World War I as “trench guns,” were used as late as the Vietnam War, and are still used for specialized purposes. However, the bulk and weight of their ammunition make them unsuitable for extended carrying, and at distances beyond a few dozen yards, the much greater accuracy of the rifle makes it the preferred military arm.

Some firearms trainers recommend the use of a shotgun instead of a handgun for home defense. They emphasize that the shotgun is much more powerful than the handgun, while still presenting less risk of overpenetration than most rifles, and that the use of a shoulder stock enables the shotgun to be aimed more accurately under stress than a handgun. However, the weight of a shotgun (typically seven to nine pounds, compared to perhaps two pounds for a handgun) and its heavy recoil can make it difficult for small-statured shooters, or those with limited upper body strength, to use a shotgun effectively for self-defense.

All types of firearms have their own particular advantages and disadvantages for lawful self-defense, and it is impossible to say that one particular type of gun is “best” in general.

5. Crime with Shotguns

Shotguns are the second most commonly used type of firearm in crimes. Their use in crime falls well behind handguns, but ahead of rifles. In 1997 interviews of prison inmates who were armed with a firearm during their offense of conviction, approximately 13 percent of prisoners reported that they were armed with a shotgun. Bureau of Justice Statistics (BJS), U.S. Dep’t of Justice, *Firearm Use by Offenders*, NCJ 189369 (Nov. 2001). In addition, 7.4 percent of police officers fatally shot between 1982 and 1993 (with guns other than their own duty weapons) were killed with a 12 gauge shotgun, the most common type of shotgun. BJS, *Guns Used in Crime*, NCJ 148201 (July 1995).

Often, criminals carrying shotguns will saw off much of the barrel (an act that is illegal under federal law, *see* Chapter 7). The sawed-off shotgun is not very accurate, but (like any shotgun) is devastating at close range.

G. *Specialty Types of Firearms and Accessories*

1. Muzzleloaders

All of the types of modern firearms described above are sometimes called *breech-loading* guns. This is because the user loads the gun's ammunition into the firing chamber from the gun's *breech*, that is, the rear of the barrel.

However, the first firearms were *muzzleloaders*, which do not use cartridges or shells for ammunition. The flintlock muskets and rifles used by infantrymen in the American Revolutionary War are an example of historically significant muzzleloading firearms.

To load a muzzleloading gun, the user pours a charge of black powder down the *front* of the barrel (i.e., the muzzle) and then uses a ramrod to ram a bullet or round ball projectile down the muzzle, covering the powder charge. Introducing a spark into the firing chamber ignites the powder, and fires the gun with an accompanying cloud of smoke.

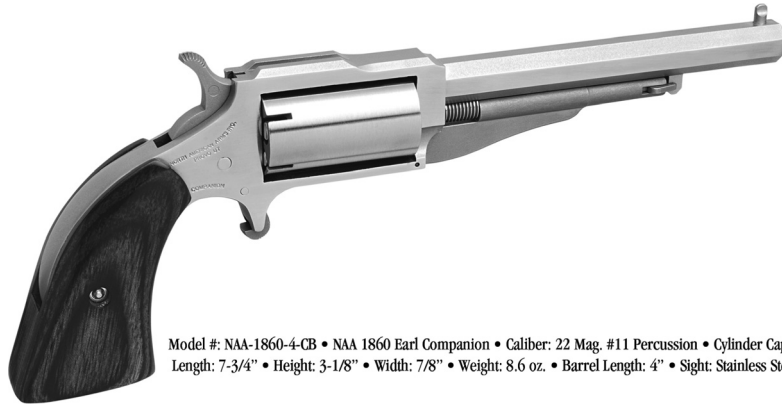
Early muzzleloaders simply used a small amount of fine gunpowder in a small pan inside the gun to provide the priming spark. However, the early nineteenth century saw the invention of self-contained *percussion caps*, which ignited when struck by a hammer. These were the ancestors of today's centerfire primer caps.

Most muzzleloaders can only fire a single shot. After that, the slow loading process must be repeated. But the first repeating firearms, such as the early revolvers introduced by Samuel Colt in the 1830s, were also muzzleloaders. (In essence, each chamber of the revolver's cylinder was individually loaded like a separate muzzleloading barrel.)

Muzzleloaders are technologically obsolete, but their limitations and their traditional quality give them an appeal to hunters and historical firearms aficionados. Today, many states maintain special "muzzleloading" or "black powder" deer-hunting seasons in addition to the regular firearms hunting seasons. Hunters willing to use single-shot, muzzleloading rifles receive the benefits of a separate season to hunt, usually before the regular hunting season begins. The growing popularity of muzzleloading hunting has fueled a steady improvement in the sophistication of commercial muzzleloading firearms. It is now possible to purchase muzzleloaders that, apart from their one-shot capacity and slow loading procedure, have the features of a high-quality modern hunting rifle. Some are even strong enough in construction that they can use smokeless gunpowder. Most modern muzzleloaders use commercial black powder "substitutes" that have similar burning properties to, but are more stable in storage and easier to clean up than, traditional black powder. In modern muzzleloaders, the gunpowder is not loose, but is a cylindrical pellet.

Muzzleloading firearms also have a distinctive legal status. Under current federal law, muzzleloading firearms, including "cap and ball" revolvers, are

much less closely regulated by federal law than modern, cartridge-using firearms. The Gun Control Act of 1968 classifies black powder rifles, shotguns, and handguns as “antique firearms” that are exempt from federal regulation, as long as the guns cannot use fixed (cartridge) ammunition. See 18 U.S.C. §921(a)(4), (a)(16)(C). Individuals can order many kinds of black powder muzzleloading firearms directly through the mail or Internet.



This North American Arms revolver is a muzzleloader. To load the gun, one removes the revolving cylinder from the frame of the gun. After that, one rams gunpowder and then a bullet into each of the five cylinder chambers, from the front. Finally, one places percussion caps on the back of each cylinder chamber, and then puts the cylinder back into the gun.

2. Machine Guns

Federal law defines any firearm that can fire more than one shot per press of the trigger as a machine gun—or rather, to use the actual spelling found in the National Firearms Act of 1934, a “machinegun.”

The term “machinegun” means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

26 U.S.C. §5845(b). Thus, the standard infantry weapons of most nations’ armies today are machine guns, including the U.S. military’s M4 and M16 rifles, and the AK-47 and AK-74 rifles of the former Soviet bloc nations. All of these weapons are capable of firing automatically, either “fully automatic” fire (in which the gun keeps firing as long as the trigger is held down, until the ammunition runs out) or multi-shot “burst” fire, in which a single trigger press fires two or three shots automatically.

In the civilian sphere, all automatic firearms are closely regulated by the federal government under the National Firearms Act and the Firearms Owners' Protection Act of 1986. Possession of a machine gun is illegal unless the possessor has completed extensive tax and registration requirements. *See* Chapter 7.

In 1986, federal law was amended to ban the private possession of machine guns manufactured after May 19, 1986. *See* Firearms Owners' Protection Act, [18 U.S.C. §922\(o\)](#). Only machine guns that were lawfully registered prior to that date may be owned and transferred pursuant to the National Firearms Act. In effect, the 1986 federal ban created a fixed pool of somewhat more than 100,000 legally "transferable" machine guns, to which no new guns can be added. This scarcity, as you might predict, has caused the price of transferable machine guns to climb steadily in the decades since the ban was enacted. Prices currently begin at around \$3,000 for the simplest models and range upward to \$25,000 or more for rare or high-quality weapons.

Federal law uses the term "machinegun" to mean an automatic, but there is a technical distinction. The Gatling Gun, invented during the Civil War, is an example of a machine gun that is not an automatic. The Gatling Gun is powered by a hand crank, rather than energy from the firing of ammunition. Gatling Guns, and other nonautomatic machine guns, are not covered by the National Firearms Act.

3. Silencers or Suppressors

A silencer (also called a "sound suppressor") is a mechanical device that reduces the sound created by firing a gun, much as an automobile muffler reduces the sound created by running the car's motor. It usually takes the form of a can-like cylinder that attaches to the muzzle of the gun.



Suppressor attached to firearm.

Many consider "suppressor" to be a more correct term than "silencer," because the devices reduce noise but do not render a firearm even close to silent. (This is an important difference between real suppressors and ones portrayed in movies.) However, "silencer" is the term used in federal law:

The terms “firearm silencer” and “firearm muffler” mean any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

18 U.S.C. §921(a)(24).

In the United States, all “silencers” are closely regulated by the federal government under the NFA. Sound suppressors typically reduce a gunshot sound by about 15 to 20 decibels; contrary to many media portrayals, the suppressed sound can still be much louder than a chainsaw. Like the possession of a machine gun, the possession of a silencer is illegal unless the possessor first completes extensive tax and registration requirements. However, there is no ban on the manufacture of new silencers.

Ten states outlaw suppressors/silencers. AmericanSuppressorAssociation.com.

In many European countries, suppressors are not regulated as strictly as in the United States. Instead, suppressors are commonly available and are frequently used to reduce “noise pollution” from hunting and target shooting near inhabited areas.

4. Armor-Piercing Ammunition

Federal law and some states restrict the manufacture, sale, and/or possession of bullets whose composition makes them unusually effective at penetrating modern body armor such as the bullet-resistant vests worn by police officers. Federal law prohibits the manufacture of “armor piercing ammunition” except for sale to government agencies, and prohibits federally licensed dealers from selling armor-piercing ammunition to individuals. **18 U.S.C. §922(a)(7)-(8), (b)(5).**

Most prohibitions of “armor piercing” ammunition define that category by focusing on the bullet’s material composition. Ordinary ammunition uses bullets made of lead and copper, while laws regulating armor-piercing ammunition typically restrict the use of very dense metals such as brass, steel, or tungsten.

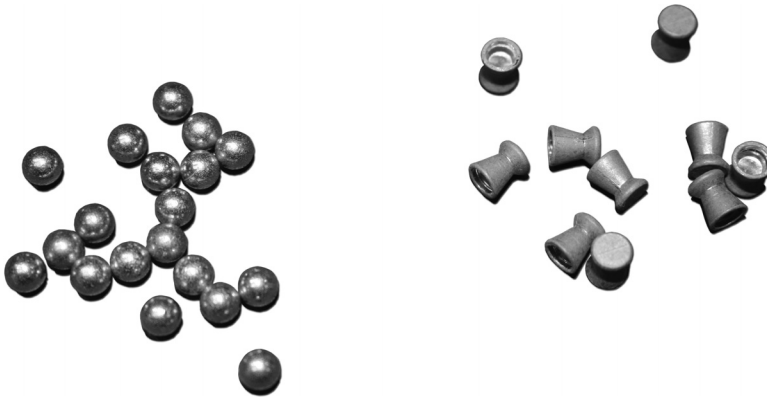
The armor-penetrating ability of ammunition depends heavily upon the velocity of the bullet, not just the bullet’s composition. A bullet fired from a rifle will have much higher velocity than the same bullet fired from a handgun, because the rifle has a much longer barrel. Thus, as a practical matter, virtually all rifle ammunition introduced within the last hundred years that is suitable for hunting deer or larger game will penetrate soft body armor (which is typically made of a flexible fabric called Kevlar), regardless of the composition of its bullets.

Hard body armor comprises rigid ceramic plates that can stop rifle fire, but such armor is much heavier and more cumbersome than soft body armor. Some body armor consists of a synthetic honeycombed material that, because of its shape, is especially good at absorbing the force of projectiles. American soldiers going into combat often wear hard body armor, and police officers on special combat teams do also; for ordinary daily police work, soft body armor is the norm.

5. Air Guns

Air guns are not “firearms.” Instead of being powered by burning of gunpowder, they are powered by compressed air or carbon dioxide. The compressed gas is usually stored in a small cylinder that fits in the gun’s grip or stock. The compressed air may also be created by pumping a slide or lever on the gun. The simplest air guns, such as the famous Daisy Red Ryder, shoot a small (.17 caliber) round ball called a *BB*. Other air guns fire a special *pellet*.

Air guns can be rifles or handguns.



BBs and pellets.

Air gun shooting is an Olympic sport, and within a limited range, the highest-quality air guns can be extremely accurate, more so than even the best firearms.

In most jurisdictions, air guns are subject to no special controls, although some jurisdictions limit unsupervised use by minors. New Jersey regulates air guns the same as firearms (police permission is required for each purchase), and New York City bans them entirely.

6. Paint Guns

Paint guns are used in the sport of *paintball*. Teams with paint guns shoot at each other in a special field that has various obstacles and places to take cover. Informal matches can also be held in the woods or other natural settings. Paint guns (usually smooth-bore long guns with a relatively short barrel) fire a round paintball, whose caliber is typically from .43 to .68 inches. If a player is hit by a paintball, he must leave the field for the remainder of the match, or for a period of time.

The gun (or “marker,” as players call it) is powered by a large cylinder of compressed air or carbon dioxide attached to the gun, and connected to the action via a hose. Markers can be pump action, semi-automatic, or automatic.

Head protection, especially for the eyes, is mandatory, and a paintball hit on bare skin can raise a welt. Military training is sometimes conducted with paint guns, allowing simulation of close-quarters combat without a risk of injury or death. Indeed, the United States Army is a leading sponsor of paintball products

and events, and works assiduously to enlist paintball competitors. Paintball is an intercollegiate sport.

As with air guns, paint guns in most jurisdictions are subject to no special restrictions, but in a few places are regulated as if they were firearms.

H. Nongun Arms

As the title of this book indicates, it is mainly about firearms regulation. However, the right to keep and bear arms, as interpreted by the courts, is not necessarily confined to firearms, and there are certain to be many cases in the future as to what constitute constitutionally protected “arms.”

1. Swords, Knives, and Other Edged Weapons

In the nineteenth century, the sword, particularly the short swords wielded by cavalymen, was often listed as among the core type of militia-suitable arms protected by state constitutional guarantees. *See* Chapters 5 and 6.

To the generation who fought and won the American Revolution, a paradigmatic arm was the bayonet, a knife made to be attached to the tip of a rifle or musket. (As discussed above in Part G.1, a musket is a long gun that shoots a single large ball of lead.) At close quarters, the bayonet was a more effective weapon than the firearm, partly because it did not need to be reloaded. Nineteenth-century decisions generally treated swords and knives as being within the scope of the right to arms, although there were sometimes exceptions for knives thought to be used mainly by ruffians or brawlers — such as the Bowie knife. *See* Chapter 5.

In most states, there are no particular restrictions on purchasing and owning swords or knives, but carrying restrictions may exist, especially on knives, and there may be bans on certain types of knives, especially switchblades and daggers.

Fencing, using sabre, epee, or foil, is a popular sport. History-minded organizations such as the [Academy of European Medieval Martial Arts](#) (based in Toronto, Canada) train people in old-fashioned combat techniques, such as swordsmanship.



Buck Knife, model 482.



Buck Knife, model 730CM X-tract.



Is a hatchet a Second Amendment arm?

For further information on edged weapons and tools, see David B. Kopel, Clayton E. Cramer & Joseph Edward Olson, *Knives and the Second Amendment*, 47 U.Mich. J.L. Reform 167 (2013); American Tool and Knife Institute, <http://www.akti.org/> (industry); Knife Rights, <http://kniferights.org/> (consumers).

2. Bows

Until well into the sixteenth century in England, the paradigmatic militia arm in England was the *longbow*. In Switzerland, it was the *crossbow*.

In the modern United States, bow hunting is still common. Although archery is not as popular as it was in the nineteenth century, many people do participate. Many states have special bow-only hunting seasons. Hunting with a bow is more difficult than hunting with a firearm. In order to make a lethal shot, the bow hunter must get much closer than does a firearm hunter.

Invented in the latter twentieth century, *compound bows*, which use a complex system of pulleys, predominate in modern hunting. The pulleys allow the bowman to store more mechanical energy with the pull of the bow string. Compound bows are more difficult to draw when the bow string is first pulled but are easier to hold in the fully drawn position. They were originally controversial but are now accepted everywhere that bow hunting is allowed.



A huntress with a Hoyt compound bow, wearing camouflage by Prois Hunting Apparel for Women.

Outside Switzerland, crossbows have always been more controversial, being associated with highwaymen and other criminals. However, a growing number of states now allow crossbow hunting, some for all hunters, others only for older or physically challenged hunters. Unlike vertical bows, the string of some crossbows can be drawn by turning a crank. Other crossbows have a metal loop on their fronts that assists weaker shooters in reloading. The shooter places the loop onto the ground, places his foot into the loop to hold the crossbow down, and then pulls the string back with both arms. Once the string is drawn, it is held in position by a lever until it is released by the pressing of a trigger. These features make crossbows easier to employ by bowhunters lacking upper-body strength. The stock and trigger of a crossbow look much like a firearm, and thereby make the crossbow look more controversial.

For further information, including safety instruction, see North American Crossbow Federation, <http://www.northamericancrossbowfederation.net>; North American Bowhunting Coalition, <http://www.nabowhuntingcoalition.com>.

3. Sprays

Chemical defense sprays have been common in the United States since the late 1960s. Most states have few or no restrictions, but Massachusetts does require a permit to possess and carry. For a summary of state laws, See <http://www.misdefenseproducts.com>. Many hunters carry a large and especially powerful canister called *bear spray*, which is sometimes more effective than a gunshot at turning away an aggressive bear.

Like any method of self-defense, sprays have particular advantages and disadvantages. Many people prefer a nonlethal means; and the carrying of sprays is allowed in many places where firearms are not. However, sprays tend to be less effective against aggressors who are under the influence of drugs or alcohol, or who consume a diet with lots of hot peppers.

4. Electric Devices

Stun guns have two exposed electrical prongs. The current between the two prongs can temporarily disable a person. To use a stun gun, one must touch the stun gun to the target's body. A variant of the stun gun commonly used in law enforcement is the *Taser*, which uses darts. The darts are attached to coiled springs, allowing the weapon to be used against an assailant several feet away. Stun guns and Tasers will not work on an attacker wearing a thick coat. The following states ban stun guns and Tasers: Hawaii, Massachusetts, Michigan, New Jersey, New York, Rhode Island, and Wisconsin. Some cities, including the District of Columbia, also have prohibitions.

5. Blunt Weapons

Laws about blunt weapons, such as *billie clubs* (also spelled “billy”), are extremely varied, ranging from no controls to prohibition. Like many of the weapons discussed in this section, they are often prohibited from public carry by general laws against carrying dangerous weapons.

6. Martial Arts Weapons

Most martial arts weapons, such as *nunchakus* or *throwing stars*, were created by the Chinese, Japanese, or Okinawans. They became popular in the United States as part of the surge of interest in all things Chinese, including the martial arts, that followed President Richard Nixon's 1971 opening to China. Most states have no special laws about them, although some states restrict carrying. New York and Massachusetts (and to a lesser degree, California) ban almost all of them.⁹ See *Maloney v. Cuomo*, 554 F.3d 56 (2d Cir. 2009), *vacated sub nom. Maloney v. Rice*, 130 S. Ct. 3541 (2010). The *tonfa* (essentially a billie club with an extra, perpendicular handle) is a popular arm for police use.

9. The oddest such ban is Massachusetts's prohibition of the “zoobow,” Mass. Gen. Laws Ann. ch. 269, §10(b), which appears to be a mistranslation of a fictional weapon from a Japanese fantasy adventure movie.

7. Knuckles

Brass knuckles and similar devices for the fingers (e.g., rings with fighting spikes) are prohibited in many jurisdictions.

For further information, see Eugene Volokh, *Nonlethal Self-Defense, (Almost Entirely) Nonlethal Weapons, and the Rights to Keep and Bear Arms and Defend Life*, 62 Stan. L. Rev. 199 (2009). The online website to this textbook contains a list of ALR annotations on weapons law, and those annotations are a good starting point to survey the diverse state laws on nongun arms. <http://firearmsregulation.org>