The Production of Criminal Violence in America: Is Strict Gun Control the Solution?

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“Strict gun control” (SGC) has no clear meaning, so it is necessary to clarify it. I define SGC as an array of legally sanctioned restrictions designed to impose firearm scarcity on the general population. SGC’s public policy goal, gun scarcity, commonly rests on the predicates that “dangerous criminal control” is not the central problem for reducing the problem of criminal gun violence but rather that it is the social prevalence of the distinctively-lethal instruments (guns) by which both supposedly “good citizens” as well as violent criminals inflict a staggeringly high percentage of injury and death.

Professor Zimring (who also has an essay published in this issue) is one SGC’s most distinguished, prolific and comprehensive theorists. He has advocated for handgun scarcity among the general population since at least 1969. Recognizing that Americans have had a long love affair with their guns and are loathe to give them up, Zimring has been candid that stigmatizing guns must be a component of a violence-reduction strategy that seeks ultimately to impose gun scarcity on the general population. He has been candid too in acknowledging that none of this will be accomplished quickly, easily, or cheaply. Thus, in 1989, he predicted a grim, culture-rending and violent future for America over the near term, even if the policies he favors were enacted. He wrote “The most marked reduction in firearms violence cannot be expected until well past the introduction of legislation designed to achieve handgun scarcity and long after the period of most intense social and political detriment or cost.”

Professor Zimring argues that even the most cursory review of American gun-homicide data show that reducing guns’ “market share” of homicide must be a key ingredient of an enlightened firearms policy. This supposedly follows from the fact that gun assaults are 5-7 times more likely to result in death than non-gun assaults and from the fact that 70% of American homicides are committed with guns. Other countries with assault rates similar to America’s but with lower gun prevalence and with a commensurately lower percentage of homicide committed with guns enjoy homicide rates 50%+ lower than America. He concludes that it only stands to reason that were a smaller percentage of America’s assaults committed with guns, its homicide rate must marginally decline, if the overall assault rate stayed the same.

Points of Convergence
Professor Zimring and I agree that carefully-crafted, well-enforced firearms control policies can contribute to marginal reductions in criminal violence. We agree that what matters from the standpoint of enlightened gun policy making is the question of who has guns, how they use their guns and the incentive effects that gun policy can have on both “who” and “how” at the margin. I also agree with Professor Zimring’s speculative hypothetical claim that putting an additional 10,000 guns on the street will not automatically result in a proportional increase in the homicide rate. Finally, we agree that while no firearms policy by itself can usher in a utopian, violence-free social order, even marginal reductions in criminal violence are worth pursuing when the benefits exceed the costs and the method pursued is cost-effective. Changes in gun policy that reasonably hold out such promise deserve thoughtful consideration.

OVERVIEW
In this paper, I will demonstrate the speciousness of
Professor Zimring’s argument that reducing the percentage of homicides committed with guns is the key to reducing America’s homicide rate. I will further argue that pursuing any gun control measure designed to impose handgun scarcity on the general population is both needless and useless. Whether it is ethically enlightened to fuel America’s culture wars by encouraging gun-stigmatization and blatant displays of intolerance directed at private gun ownership per se is a topic for another day.9

Zimring’s Argument for Changing Course with America’s Firearm Policy

Professor Zimring thinks that gun control laws can marginally reduce the homicide rate by making guns progressively scarcer in the social environment. How large a marginal reduction might such policies win over time? Zimring has relied on a single FBI statistic to tell the tale: "Guns are used in approximately 70% of all criminal killings. He writes "this tells us immediately what the special problem of gun use is in violent crime -- an increase in the death rate..." Because he subscribes to (and can fairly claim to have originated) the "instrumentality hypothesis," according to which the supposed greater inherent lethality of guns makes assaults committed with them 5-7 times more deadly, independent of perpetrator-factors, Professor Zimring intimates that the potential marginal reduction in the homicide rate resulting from supply-side restrictions might be quite large.

Professor Zimring claims that all mainstream criminologists now recognize that guns are an independent "contributing cause" to society’s homicide rate and that the terms of their intramural debates now concern how large a homicide rate reduction might result were guns’ "market share" of assaults reduced.

Although suicide is not a crime and so, by definition, does not qualify as a criminal assault, it is common to count a suicide as a violent death. If so, Zimring’s "instrumentality hypothesis" should also extend to a lethality reduction analysis of "self-attacks" (suicide attempts). America’s suicide rate is approximately twice as high as its current homicide rate (though it is a rough 11 versus roughly 6). More than 30,000 Americans commit suicide each year, putting suicide in the top ten causes of death. Guns’ "market share" in suicide is 50% - not as large as their market share in homicide, percentage-wise, but the body count is nearly twice as high.

Assuming that guns are 5-7 times inherently more lethal than other mechanisms of injury, and with guns’ market share of suicide at 50%, the instrumentality thesis says that America’s suicide rates should fall if fewer self-attacks were committed with guns, if the overall number of self-attacks (suicide attempts) were to remain the same. And the instrumentality hypothesis predicts finding lower suicide rates in countries where comparative gun scarcity results in a smaller percentage of suicides committed with guns.

Unfortunately, the hypothesis generated by the suicide-corollary of the instrumentality thesis is false. Countries known for having very restrictive gun policies and for having much lower gun prevalence than the United States (for examples, Hungary, Denmark, Austria, Norway, and France) nevertheless have persistently higher suicide rates, notwithstanding that a comparatively low percentage are committed with guns.

The Seventy Percent Solution?

The statistic that Zimring finds so telling in favor of his instrumentality thesis does not tell the tale he thinks it does. As a century’s worth of data graphed below shows, America’s estimated homicide rate fluctuated by an order of magnitude - from a reported low of 1.1 per 100,000 in 1903 to a high of 10.7 in 1980.8

![Figure 1. Homicide Rate, 1900-2001](image)

*Note: The 2001 rate includes deaths attributed to the 9/11 terrorism attacks.*

In summary:
- At the beginning of the century, there were 1.2 homicides per 100,000 population.
- Rates rose significantly after 1904 reaching a peak of 9.7 in 1933.
- From 1934 to 1944, (encompassing the years of the Great Depression) rates fell to 5.6 in 1944.
- After a slight increase from 1945 and 1946 when rates reached 6.1, rates declined, falling to 4.5 in 1955.
- After 1955 rates increased slightly each year until the mid 1960s when there was a steep increase reaching a peak of 10.1 in 1974.
- Rates fell slightly in 1975 and 1976 but began rising thereafter, reaching an all time high of 10.7 in 1980.
- After 1985, rates increased again peaking in 1991 at 10.5.
- After 1991 rates declined slightly but remained at around 10 through 1995.
Starting in 1994, rates declined each year, reaching 6.1 in 2000, the lowest rate since 1967.

However, unlike the nation’s homicide rate, a random sampling indicates that the percentage of homicides committed with firearms remained comparatively constant. For example, in the period 1920-26, 71% of homicides were by gun. According to the FBI, the percentage of homicides committed with guns dropped to 62% in 1989 but was back up to 70% in 1993, as Professor Zimring has noted. Most recently, the FBI estimated that of the 16,204 homicides committed in 2002, 67% were committed with firearms.13

Since the homicide rate varied remarkably over the last 100 years but the percentage of homicides committed with guns did not, the latter figure cannot provide an explanation for the former. Instead of giving us insight, a century’s worth of data say that America’s homicide rate is virtually independent of the percentage of homicides committed with guns.

This is not a subtle point, so I reiterate its importance for Professor Zimring’s argument. The data do not support that America’s homicide rate is strongly and independently determined by the percentage of homicides committed with guns. Therefore, we should not infer “immediately” that reducing guns’ 70% “market share” of criminal killings must be sine qua non in a comprehensive strategy to reduce the nation’s homicide rate.12

Professor Zimring may be correct to say that the debate amongst mainstream contemporary criminologists has shifted from perpetrator-focused theories to their arguing the magnitude of the instrumentality effect on the homicide rate, but the data support only those criminologists who estimate its effect as very small or negligible.15

It is not clear what might explain a shift Zimring claims to have occurred amongst “mainstream” criminologists. Kleck’s comprehensive review of the data and of the criminological literature found no empirical basis for it.11 For example, Kleck notes that in 1972 Zimring acknowledged “differential intention or personality may play some role in gross interclasser differences in death rates.”

Kleck further notes that in 1982 Philip Cook, another strong proponent of SGC, seemed to share Zimring’s view that perpetrator factors cannot be ignored when he postulated that “the task determines the tool.” And again in 1987, Cook opined that “the choice of weapon may also be associated with...the assailant’s intent. If the robber plans to kill the victim, then presumably he will try to equip himself with the most appropriate tool for the task.” However, by 1991, both Cook and Zimring apparently had abandoned acknowledging that perpetrator factors (such as his intent and his ability to sustain murderous motivation during the few seconds it takes to inflict lethal injuries) are important lethality-enhancers that make a difference in both weapon selection and use. If we infer the comparative importance a criminologist attributes to various lethality-enhancing factors in the production of criminal violence from the emphasis he gives it, it seems that Zimring now discounts a perpetrator’s lethality-enhancing factors in favor of the instrumentality effect. Thus he says, “fatality seems[s] to be an almost accidental outcome of a large number of assaults committed with guns or knives.”13 And in his article, he says his data “suggested that many homicides were the result of attacks apparently conducted with less than a single-minded intent to kill.”

Zimring does not further define “large number,” or “many,” nor does he say how one might reliably discern whether a killer was single-minded or ambivalent or acting inadvertently during the seconds or minutes it took him/her to inflict a mortal wound on a victim. Why does it matter that we have such clarifications and accounts? Because we should demand, at a minimum, clear and convincing evidence to rebut our presumptions that competent adults, including perpetrators of criminal gun assaults, intend the reasonably foreseeable consequences of what they do and that they perform acts intentionally (such as, carry a loaded gun rather than a pack of chewing gum in anticipation of their criminal encounters, pull the trigger while the gun is pointed at the victim, or thrust the blade when the victim’s abdomen is within arm’s length) precisely because they intend to produce or are willing to risk producing the reasonably expectable results. Absent a compelling account for comparatively neglecting perpetrator-factors, Zimring seems to be claiming that in “a large number of assaults,” the killer is as much a victim of circumstance as the person he kills - just luckier, because of where the gun was pointed when the trigger pulled his finger.

Inherent Lethality?

![Figure 2. Crimes committed with firearms, 1973-98](image-url)
On cursory review, this graph might seem to confirm Professor Zimring’s “market share” hypothesis about homicide. Beginning approximately in 1993, there commenced a remarkable decline in firearm use in crime. Associated with the declining use of guns in crime was a 40% decline in the homicide rate. So far so good for the market-share corollary of the instrumentality thesis.

However, the 40% decline in the homicide rate was not associated with a remarkable reduction in the percentage of homicides committed with guns (which at 67% in 2002, remained close to the 70% level found in 1993. And, it should not be necessary to add that the homicide rate decline was not associated with any documented, progressive gun-scarcity among the general population nor among criminals.

These data suggest that the instrumentality thesis is almost certainly false.

**Perpetrators and Their Tools**

It is a truism that gun assaults are perpetrated by gun-armed perpetrators. But in this case, the truism is not too true to be good. The data on fatal outcome frequency do not permit our distinguishing a weapon’s inherent lethal properties from the closely related effects of a perpetrator’s dangerousness.

It is obvious and unarguable that some killings occur that wouldn’t have occurred had the perpetrator possessed some other weapon type or none at all. However, we must not be too hasty to map gun/non-gun onto this point. Substituting some other gun, different from the one actually used to kill, one unfamiliar to the perpetrator, heavier, more awkward, and with a very stiff grip safety (as some 1911s have) might have made the outcome non-fatal. The perpetrator may not have been able to make the imaginary substitute firearm fire at all, or while fiddling with it, trying it to figure out why it wouldn’t fire, the victim might have taken the opportunity to escape, or frustration resulting from an inability to make the gun fire might have cooled our would-be killer’s murderous motivation. But there is no free lunch. A clunky, hard-to-use firearm may interfere with an otherwise comparatively helpless person’s lawful use of deadly force in self-defense such that she dies in the assault she might otherwise have forestalled.

That injuries inflicted with firearms are 5-7 times more likely to result in death does not prove that guns are inherently “more lethal” mechanisms for inflicting injury than others, such as bombs, bludgeons or butcher knives. The lethality of a suicide bomber, for example, importantly involves “personality factors,” appearance factors, facts about his/her intent and willingness to “push the button” when the time comes, not merely the contents of the belt s/he wears, concealed from view. (Would suicide bombers become more lethal by substituting firearms for their explosive under-garments? Palestinian terrorists used to use firearms in their attacks, but the scope of their planned carnage was too often truncated by armed victim/hystander intervention.)

The limitations of our criminological data notwithstanding, the trauma literature enables a clearer focus on comparative inherent lethality by mechanism of injury. However, this evidence source seems not to support that gunshot wounds, as a class, are remarkably more life-threatening than wounds inflicted by other mechanisms, such as butcher knives or ice-picks. For example, a study published in the *Annals of Surgery* investigated the mortality associated with 430 cases involving penetrating wounds to the abdomen. In 266 cases the mechanism of injury was known. Shotguns proved the most lethal with a mortality
of 20.4%. Pistol-inflicted abdominal wounds had a mortality of 16.8%. Ice picks wounds and butcher knife wounds ranked next with 14.3% and 13.3% mortality respectively. These findings support that gun shot wounds (GSW) to the abdomen are somewhat more life-threatening than penetrating wounds inflicted with other weapons, but not 5-7 times more life-threatening.16

It is plausible to suppose that perpetrators of assault who are generally more willing to inflict lethal injuries and who desire to be thus perceived by others, (and who, unlike suicide-bombers, want to survive the assault themselves), are also more likely to choose guns rather than other mechanisms. Whether guns have 5-7 times greater intimidation value than other weapons in a criminal assault is unknown, but in so far as guns have marginally greater intimidation value than some other weapons, it is partially because of the estimated increased seriousness of purpose that gun possession tends to convey to others.

Behavior modification theory also suggests that a criminal may index his own intimidation level to the weapon he carries. Thus he may select a gun type widely regarded among fellow gang members as more intimidating and he may actually become more intimidating when he has it in his possession. ("I must be a pretty tough guy, after all I'm carrying a .45 caliber model 1911 just like the toughest of my drug-dealer buddies, not some wussy, nickel-plated .25 caliber 'pimp gun'.")

It is well-appreciated that gun-underwritten intimidation deters victim resistance and increases victim compliance and submission. That gun-armed robbers are less likely to inflict injury on their victims than unarmed robbers or robbers armed with other weapons is consistent with their preferring submission to inflicting injury. The type of victim on whom the perpetrator typically preys will also play a role in his choice of weapon. Robbing children of their lunch money requires a different calculus of intimidation than robbing convenience stores, banks or fellow drug dealers. Robbing drug dealers is risky because they enjoy a reputation for violence and will almost certainly be armed. But bank robber Willie Sutton's principle still recommends considering them because drug dealers are known to carry large amounts of unmarked cash and will likely not report victimization to the police. (Sutton was once asked "Why do you rob banks?" He replied, "Because, that's where the money is.")

A preference for victim submission does not rule out a criminal's contingent willingness to inflict injury, nor does it exclude his having a comparatively high susceptibility to preference inversions regarding violence that may be triggered by seemingly trivial situational factors such as his victim's having an "attitude" (or even having a contemptible lack of it). The criminological dynamics of labile preferences amongst opportunistic criminals has been well described by James Q. Wilson and Richard J. Herrnstein.17

**Who Shoots People, Who Gets Shot?**

The romantic stereotype of gun-shot–wound-inflicting criminal perpetrators as ordinary folk, like you and me, who just happen to have a gun ready when momentarily provoked to anger by friends or family members does not square with the facts. In so far as the data permits stereotyping, neither killers nor their victims are just plain folks.18 It has long been appreciated that killers are significantly more likely than the general population to suffer from below-average cognitive ability, brain dysfunction, brain injury or mental illness, alcoholism or other substance abuse or all or several of these in combination. Violent offenders also tend to have histories of personal violence from childhood, initially as a victim and eventually as victimizers of other children, siblings and non-human animals.19 Data gathered from 1960 to date indicate that most homicide perpetrators are male, younger than 30, 70-80% have criminal records and average four arrests for major felonies. By contrast, 85% of the general population has never once been arrested. None of these statistics permit inferring that any individual captured by this demographic profile who has not yet murdered anyone, to a high degree of certainty, will do so eventually. Most will not.

The demographic profile of homicide victims tends to mirror that of their killers. A study of GSWs reported to the police in Charlotte, NC, found that 71% of adult victims had criminal records. The Bureau of Justice Statistics reports that young African American males are 6 times more likely to murder someone and 6 times more likely to be a murder victim than their white counterparts. As Professor Zimring documents in *Crime Is Not The Problem*, America's lethal violence problem is overwhelmingly and disproportionately a problem among its young, poor, African American population. Blacks are more than seven times as likely as whites to be arrested for violent offenses and more than eight times as likely to be arrested for homicide. Assaults by black offenders are more than twice as likely to result in a death than assaults committed by white offenders. Zimring notes that the concentration of serious violence among blacks is so much greater than the concentration of other criminal offenses that if robbery and homicide were not so concentrated among black offenders, the United States would be a much safer country,20 and most especially for African-Americans.21 But again, these relative-risk statistics must be balanced by the facts that most young African-American males whether poor or not poor, do not commit robbery or homicide and that homicide statistics have improved for African-Americans just as they have for every other demographic category.

**10,000 Guns**

Professor Zimring claims that introducing 10,000 guns into an environment where violent assault is rare will not
produce a large number of additional deaths unless doing so somehow were to increase the assault rate. On the other hand, were 10,000 guns added to an environment where rates of criminal attack are already high the contribution made to the expectable increase in the death toll from violence must be high.

This thought experiment (taken from his book Crime Is Not the Problem) captures Zimring’s sociological theory of lethal violence in a nutshell. Note that, in the hypotheticals he considers, Zimring limits speculating to whether a bolus of 10,000 (of not further specified types of) guns added to an imaginary society would result in a small or large number of additional deaths. He does not even consider that adding 10,000 guns to a social environment might have no net-effect on the number of deaths. Nor does he consider that an additional 10,000 guns might actually be associated with an overall decline in the violent death total or rate. That adding 10,000 guns might have net-positive social effects is not even among the remote possibilities.

But we needn’t limit ourselves to subjectively speculating along with Professor Zimring about the more or less likely consequences of adding 10,000 guns in a simulated social experiment. Instead we can analyze data from a real-world experiment that enables less speculative answers. We have Bureau for Alcohol, Tobacco and Firearms (BATF) firearms production/import/export data that enables an objective estimate of how large a bolus of guns America has actually received over the past 20 years. We also have the perspective provided by a century’s worth of year-by-year homicide data. And we have a huge, county-by-country data-set from the entire United States that enables a judgment whether the nation’s 34 CCW states’ putting approximately 3+ million non-police carries of concealed handguns on the streets has transformed them into the bloodiest jurisdictions.

According to BATF’s data, from 1982-2001 American gun manufacturers produced 77,361,015 firearms, including 54,484,470 handguns. All were sold in the American retail market except for 65,813 handguns and 96, 861 long guns (rifles and shotguns) that were exported. What was happening in the homicide market over that period?

The graph shows that the number of homicides committed with “other guns” (which would include shotguns that the trauma data say are inherently more lethal than handguns), knives, blunt objects and “other methods” held remarkably constant. By contrast, the number of homicides committed with handguns is much higher and more highly variable.

In 1980, when America’s homicide rate hit its all-time high (10.7), there were 25,040 homicides, with slightly fewer than 50% committed with handguns. By 1992, the homicide rate was 9.3 but the homicide total hit an all-time high, 24,700. In 1993, while the number of homicides committed with handguns soared to more than 14,000 (with homicide from all mechanisms totaling 24,530), the homicide rate actually had declined (albeit not much) from its 1980 all-time high to 9.5.

Beginning in 1993, the homicide rate began a steep decline to its current level of 6/100,000, the lowest since the mid 1960s. Handgun homicides also declined sharply. However, the handgun infusion continued, albeit also declining from a peak of 2.6 million in 1993 to 945,215 in 2001. Handgun killings declined, handgun production declined and the homicide rate declined. But I reiterate, the percentage of killings committed with firearms, to which Professor Zimring’s lethality hypothesis attaches such great importance, did not change remarkably (namely, 67% in 2002) from what it had been in 1993 (namely, 70%).

Beginning in Florida in 1987 and now including 34 CCW-issuing states, more than 3 million so-called “shall issue” licenses to carry a concealed handgun have been obtained by qualified persons. Typically, these laws prohibit the carrying of concealed handguns to anyone who has not satisfied statutory requirements but mandate issuing a permit to every person who satisfies them. Requirements include age restrictions; a personal history free of felony convictions or arrests for violence and a medical history free from documented mental illness as verified by an applicant-authorized investigation of his/her medical records; enrollment in a state-approved course on gun safety, legally permissible gun use in personal protection, and demonstrated minimum proficiency in actual gun use, finger-printing and FBI background check. Associated application fees, course-tuition fees, etc vary the costs associated with obtaining a (renewable) license from $150-$500.

The most important and rigorous work on the criminological consequences of CCW laws has been done by John Lott who claims to have found a substantial reduction in criminal violence in CCW-issuing jurisdictions, with the apparent deterrent effects being proportionally greater in

![Figure 4. Homicide by Weapon Type, 1976-2000](image-url)
counties that issue licenses in proportionally greater numbers. Lott has freely shared his data set with anyone who requests it. Several scholars have replicated Lott’s findings, others have been highly critical on methodological grounds and many harshly so, on political grounds.

Irrespective of the details of the Lott-related controversy, it is unarguable that jurisdictions that have adopted CCW laws have not paid a heavy price in blood and gore, as was first predicted for Florida in 1987 and predicted again and again in every subsequent political battle over their adoption elsewhere. Criminological theories rarely enjoy such a direct verifying/falsifying reality check. Some theories have been rescued from refutation by contrary appearances by making the logically-available claim that CCW laws did not change social reality; they only made legal what was widely done when illegal. This might make all Lott’s “discoveries” investigation-relative artifacts, absorbed into nothingness by properly-done regressions. If so, logic provides a refuge for proponents of Zimring’s instrumentality thesis and the nation’s experience with CCW does not necessarily “slam dunk” over the theoretical obstacle interposed by it after all.

**Why Zimring Ignores the Apparent Benefits of Armed Self-Defense**

Professor Zimring has always opposed the use of force in self-defense. Initially, his arguments against resisting criminal attack were pragmatic. Early analysis of the data on victim-resistance showed that victims who were criminally attacked and resisted were also more likely to be injured or killed than victims who put up no resistance at all. However, the early analysis only found a statistically significant association between victims who did worse and victims who resisted. The data were not recorded in such a way as to permit inferring that resisters did worse because their resistance provoked an injury-causing attack that might have not have occurred otherwise. And the early analysis did not distinguish between gun-backed resistance and non-gun resistance.

However, further analysis of the data did distinguish between types of resistance. It was found that victims who used a gun to resist criminal attack not only did better than victims who resisted by other means, they also did better than victims who offered no resistance whatsoever. Where once we had no data on the efficacy and frequency of defensive gun use (DGU), we now have at least 15 such studies. The most statistically sophisticated of these supports that DGU occurs more frequently than criminal gun-assaults, probably not significantly less than 2.5 million times per year and perhaps more frequently.

These findings have apparently prompted Zimring to shift his ground. With apparent benefit and frequency of civilian defensive gun use now established, Zimring now denies that there is a valid difference between criminal lethal violence and lawful use force in self-defense. He lumps these together under the general rubric “lethal violence.” Indeed, Zimring thinks that the American tradition that attaches ethical importance to the distinction between criminal violence and lawful use of force in self-defense contributes to perpetuating America’s violence problem. This explains why Professor Zimring thinks that America’s “violence problem” is not merely criminological, but comprehensively societal.

Since Zimring regards all uses of deadly force as malignant, irrespective whether it is perpetrated by criminals or used by (allegedly) “good citizens” in self-defense, his social calculus refuses to count as beneficial any use of deadly force by private citizens. Theoretically, this makes the now-substantial literature on defensive gun use irrelevant to an ethical inquiry whether the net-effect of firearms violence is beneficial, or malignant. It’s all malignant per se.

It is also noteworthy that Zimring ignores lethal violence perpetrated by government officials, irrespective whether clearly lawful, e.g., when a law enforcement officer justifiably shoots a violent felon in the line of duty or outrageously violates individual rights under the color of law, e.g., as when the attorney general of the United States authorized use of tanks, incendiaries and automatic weapons to kill indiscriminately women, children and 19 children, as she did in Waco, Texas in 1994.

**Conclusion**

The fundamental ethical problem posed by imposing gun scarcity on the general population has nothing to do with the comparatively trivial “sporting interests” of the public. Nor does gun control implicate merely idiosyncratic, outmoded notions of personal liberty. On the contrary, the fundamental ethical problems posed for proponents of SGC arise when they subscribe simultaneously to the following propositions:

1. An ethically legitimate state must recognize and respect equally the fundamental, individual right to bodily integrity, which includes a fundamental, serious right to self-defense, and;
2. the state has no general duty to provide minimally adequate protection from criminal violence to any individual, nor does it incur a special obligation to anyone by expressly promising an individual that it will provide her a reasonable, minimum of protection from criminal violence, and;
3. the State’s inherent police powers include the authority to threaten competent, non-felon adults with criminal penalties for having arms for self-preservation and defense;
4. A state whose laws seriously impairs the right of a
competent, trustworthy citizen to defend herself from violence, owes her compensating protection from bodily injury.

Affirming 1-3 is incoherent. 2 & 3 rule out 1. Prohibitory gun laws directly implicate the state’s duty to respect equally each person’s interest in bodily integrity. If the state bans civilian possession of “equalizers” by invoking a monopoly power under prospect 3, it forfeits those who are, as a result, made vulnerable to offset the criminological effects of natural inequalities (of being trailer, smaller and weaker). Machiavelli put it crisply: “There simply is no equality between a man who is armed and one who is not.”

Strict gun control, by effect if not intent, institutionalizes the natural predatory advantages of larger, stronger, violence-prone persons or gangs of such persons, and yet its proponents incur no liability to offset resulting risks unless they renounce proposition 2 above.

Prohibiting competent, adult, non-felons to possess “equalizers” also has distributional wealth effects not only between criminals and the law-abiding, but also among the law-abiding. Strict gun control disproportionately increases the risks of violent victimization for less well-off law-abiding citizens who cannot take advantage of the privileged connections to officials that wealthier citizens take for granted. Less well-off citizens cannot afford the services of professional body guards who guard our social elites. They cannot afford alarm systems or the enhanced physical security that comes with living in exclusive, gated communities. Strict gun control institutionalizes unequal respect for each citizen’s fundamental interest in bodily integrity.

Similarly, banning “cheap” so-called Saturday Night Specials effectively discounts the equal bodily integrity interests of poorer citizens, and not merely the interests of predatory criminals, who tend generally to be poorer than average. Outlawing “cheap” guns threatens to transform poor but law-abiding citizens into lawbreakers solely for choosing a product on the basis of its affordability. Too, eliminating a class of “cheap” guns necessarily denotes what were formerly “marginally non-cheap” guns to “cheap” gun status, eligible for banning as “cheap guns,” step by step.

Since supply-side restricting gun control laws that target the general population mitigate the citizen’s fundamental interest in bodily integrity, and as well as his/her interest in being a political equal, while also materially affect the balance of advantage between criminals and the law-abiding in favor of criminals, and have distributional wealth effects among the law-abiding, effectively pricing lives disproportionately, every rational, liberal-minded person has reason to get the data necessary for responsible reflection on supply-side restrictive gun control.

We should also consider the associated administrative and enforcement costs secondary to enacting gun laws aimed at the general population and predicate all discussions about the costs/benefits of gun control on an assumption of imperfect compliance. Prohibiting murder has not eliminated it, nor has punishing its perpetrators with death. Banning handguns cannot make them disappear, nor even make them scarce. Despite decades prosecuting our socially and economically ruinous “war on drugs,” cocaine, crack and other banned substances remain readily available.

Finally, we should never forget that officially authorized violence, whether inflicted in war against aliens or inflicted in genocidal, domestic exterminations perpetrated under the color of law, has a grim, stubbornly enduring history. When compared with the officially-sanctioned killing fields in Cambodia or Rwanda or Kosovo or Iraq, or Hitler’s massive extermination apparatus, or Stalin’s mass killings, or Mao’s various “Campaigns” against “Bad Elements,” private violence, mere criminality, pales in comparison. Enthusiasm for a state monopoly over firearms must be tempered by these memories.

REFERENCES


4. Urging “thoughtful consideration” of gun policy changes may be as oxymoronic politically as commending “thoughtful consideration” of changes in abortion policy.

5. A “back of the envelope,” county-based calculation indicates that, in the 2000 Presidential Election, counties going for Al Gore had a homicide rate of 15.2, while counties going for Bush had a homicide rate of 12.2. Our current fascination with red v. blue states and or counties underwrites effective political strategy but is potentially very harmful to the country as a whole.

6. In Crime Is Not The Problem, he additionally supports it by noting that the homicide rates in the 67 countries are markedly lower than that in the United States despite their having assault rates similar to the United States. See especially Chapter 7, 106-110.


8. The graph of the nation’s homicide rate is available at the Bureau of Justice Statistics Website. It should be noted that at the beginning of the 20th Century, several states known or
suspected of having comparatively high homicide rates did not report their homicide data to the federal government. This suggests that the nation’s homicide rate must have been higher than the reported national estimate during those years.

Professor Kleck has pointed out to me in a personal communication that “The data for 1903–1932 are not actually national data, but rather merely cover the changing subsets of the U.S. that were included in the ‘Death Registration Area’ (DRA), which consisted of those states that have achieved relatively complete coverage of deaths in their vital statistics systems. Most the apparently enormous increase in homicide rates from 1903–1920, and part of the 1921–1933 increase, is a statistical mirage, attributable to new, mostly high homicide, states being added to the DRA. Only a minority of the U.S. was covered by the 1903 DRA, predominantly low-homicide Northeast states, while all of it was covered by 1933. Unfortunately, there was a systematic pattern to which states got added to the DRA latest — generally the states that were the last to get their statistical systems up to speed and join the DRA also tended to be the homicide states, mostly from the South and Southwest. E.g., the very last state to join was Texas, a huge contributor to the national homicide rate both because of its high rate and its large population. In reality, the increase in the U.S. homicide rate was much milder than your chart indicates, up until Prohibition went into effect in 1920, at which point homicide really did jump up, though not as much as the DRA-based data seems to indicate.”


18. *Supra* note 13, esp. 992-999.


21. By federal law, every firearm produced by American gun manufacturers must bear a serial number. Each firearm imported must also bear a serial number. Domestic production totals, imports and exports must be reported annually to the Bureau of Alcohol, Firearms and Tobacco. The trade publication *Shooting Industry* also publishes annually, based on BATF-provided data, the number of firearms produced over a running 20 year period. These data include BATF totals by handgun type (revolvers and pistols) and by caliber. They enable an objective basis for evaluating market trends and for estimating and updating the number of civilian-owned guns.

Using BATF figures to establish a 1945 baseline, Gary Kleck has developed a production-based model that calculates annual domestic production, adds imports and subtracts exports. From 1945-1994, the American civilian gun total rose from an estimated 8,909,100 guns to an estimated 255,604,901 guns, an increase of 502.28%. Over that period, the number of privately-owned handguns increased from an estimated 12,657,618 to an estimated 84,665,690, a gain of 668.9%. From 1945-1994, Americans bought handguns at a higher rate than they bought long guns. The whole-period handgun growth rate was 151% of the whole period long gun growth rate (a total handgun increase of 668.9% vs. a total long gun increase of 440.7%).

Between 1993-1999 the industry produced approximately 28.6 million firearms, including 12.5 million handguns. Allowing for imports and subtracting for exports, we may reasonably estimate that the current gun total approximates the size of the U.S. population, including approximately 95-100 million handguns. Figured on a per capita basis, American citizens probably own guns at a rate between 969 and 1016 per 1,000 adults, including a rate between 365 and 388 handguns per 1000 adults.


23. *See supra note 14., ch.5 for a comprehensive review.


