

U.S.A: More Guns, Less Crime?

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LISBETH ANDREA OVIEDO PRADA, NOV 14 2012

The United States is unique among wealthy nations in its vast private inventory of firearms. The nearly 300 million guns in private hands[1] are used in part for recreation, mostly hunting and target shooting. But what engenders the most public controversy over firearms is their use against people during either the commission of or defense against crime. Gun advocates regard firearms as an important crime deterrent and source of protection, while control advocates denounce guns for the damage they do in the hands of criminals. What both groups can agree on is that widespread ownership of firearms has an important impact on the quality of life in America.

Historically, the right of having guns in America comes from The Second Amendment, which mentions: “A well regulated Militia being necessary to the security of a Free State, the right of the people to keep and bear Arms shall not be infringed”[2]. The U.S. Supreme Court has never struck down any piece of legislation on Second Amendment grounds, in part because justices have disagreed on whether the amendment is intended to protect the right to bear arms as an individual right or as a component of the “well-regulated militia.”

According to a Gallup/NCC poll[3] the preponderance of American population agrees with this last one, so much so that of the 68% of respondents who believed that the Second Amendment protects the right to bear arms, 82% still believe that the government can regulate firearm ownership to at least some extent. The individual rights interpretation reflects the view of the majority of Americans, and more clearly reflects the philosophical underpinnings provided by the Founding Fathers, but the civilian militia interpretation reflects the views of the Supreme Court and seems to be a more precise reading of the text of the Second Amendment.

Nevertheless, behind the technical part of The Second Amendment, from the middle of 1980 gun massacres in the US have recently dated as a social phenomenon. When mass shootings occur, many think that, if only one of the citizens at the site had access to a firearm, they could have taken the gunman out and saved lives.

In the two decades since the Killeen massacre[4] – during which time the American nation was horrified by mass shootings in schools, churches and even a military base — the campaign for expanding “right to carry” laws gained traction around the country. Arizona has one of the most liberal provisions, allowing citizens to carry concealed firearms in a variety of public places, even without a special permit. This is how when a gunman opened fire outside a grocery store in Tucson, Arizona, this tragic shooting[5]– in addition to the six dead, twelve others were wounded -became a real life-and-death test of the supposed benefits of concealed carry, with disappointing results for the more-guns-less-crime believers.

Beyond this, there is a vast support in The United States to the idea that owning a gun can allow defending yourself and others in case you need to do it. A substantial part of this support comes from social organizations as: the National Rifle Association (NRA), the Gun Rights Policy Conference (GRPC), Calguns Foundation, Keep and Bear Arms, the National Shooting Sports Foundation, The Second Amendment Foundation. These organizations do not only promote an understanding about the Constitutional heritage to privately own and possess firearms, but they also carry on many educational and legal action programs designed to better inform the public about the gun control debate.

Likewise they declare that when states allow citizens to have a gun, crime can be drastically reduced. The NRA

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claims[6] that due to the numbers of gun owners and firearms, Right-to-Carry (RTC) states, and people carrying firearms for protection have risen to all-time highs during 2008 the nation's murder rate has decreased 46 percent to a 43-year low and the total violent crime rate has decreased 41 percent to a 35-year low.[7]

Studying crime trends in every county in the U.S., John Lott and David Mustard concluded, "Allowing citizens to carry concealed weapons deters violent crimes [...] when state concealed handgun laws went into effect in a county, murders fell by 8.5 percent, and rapes and aggravated assaults fell by 5 and 7 percent." [8] At present, there are 40 Right-to-Carry (RTC) states: 37 have "shall issue" laws, requiring that carry permits be issued to applicants who meet uniform standards established by the state legislature. Two states have fairly-administered discretionary-issue carry permit systems. Vermont respects the right to carry without a permit. Alaska and Arizona have "shall issue" permit systems for permit reciprocity[9] with other states, and have allowed concealed carrying without a permit since 2003 and July 2010, respectively (Annex 1).

Since adopting right-to-carry in 1987, Florida's total violent crime and murder rates have dropped 32 percent and 58 percent, respectively. Likewise Texas' violent crime and murder rates have dropped 20 percent and 31 percent, respectively, since enactment of its 1996 right-to-carry law. (Data: FBI.)

Analyzing National Crime Victimization Survey data, criminologist Gary Kleck concluded "robbery and assault victims who used a gun to resist were less likely to be attacked or to suffer an injury than those who used any other methods of self-protection or those who did not resist at all." [10] In the 1990s, Kleck and Marc Gertz found guns were used for self-protection about 2.5 million times annually.[11] A study for the Justice Dept. found 34 percent of felons had been "scared off, shot at, wounded or captured by an armed victim," and 40 percent had not committed crimes, fearing victims were armed[12] (Annex 2).

Besides the fact that RTC States have lower violent crime rates, on average, compared to the rest of the country, the defenders of the right to own a gun argument that the right to self-defense has been recognized for centuries. Examples as: Cicero saying 2,000 years ago: "If our lives are endangered by plots or violence or armed robbers or enemies, any and every method of protecting ourselves is morally right;" English jurist Sir William Blackstone observing that the English Bill of Rights recognized "the right of having and using arms for self-preservation and defense" as intended "to protect and maintain inviolate the three great and primary rights," the first of which is "personal security"[13], Sir Michael Foster, judge of the Court of King's Bench, writing in the 18th century, "The right of self-defense [...] is founded in the law of nature, and is not, nor can be, superseded by any law of society." [14]

The Supreme Court, in *U.S. v. Cruikshank* (1876), recognized that the right to arms is an individual right, stating that it "is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence." In *Beard v. U.S.* (1895), the court approved the common-law rule that a person "may repel force by force" in self-defense, and concluded that, when attacked, a person "was entitled to stand his ground and meet any attack made upon him with a deadly weapon, in such a way and with such force" as needed to prevent "great bodily injury or death." In the Gun Control Act (1968) and Firearms Owners' Protection Act (1986), Congress stated that it did not intend to "place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to . . . personal protection, or any other lawful activity."

The right of self-defense allows you not to expect protection from the Police. In *Warren v. District of Columbia* (1981), the D.C. Court of Appeals ruled, "official police personnel and the government employing them are not generally liable to victims of criminal acts for failure to provide adequate police protection [. . .] a government and its agents are under no general duty to provide public services, such as police protection, to any particular citizen." In *Bowers v. DeVito* (1982), the Seventh Circuit Court of Appeals ruled, "There is no constitutional right to be protected by the state against being murdered by criminals or madmen."

Despite everything, those who disagree with having the right to bear guns have also something to say. They claim that readily accessible firearms, because of laws' laxity, have a negligible effect on public mass shootings and the harshness of violence. Supporting this first reason Daniel Webster, co-director at the Center for Gun Policy and

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Research at the Johns Hopkins Bloomberg School of Public Health, wrote: "Laws prohibiting gun-carrying are an important tool for police to use to suppress the practice in so-called hot spots for shootings. Police units focused on deterring illegal gun-carrying have been the most consistently effective approach to reducing gun violence. Permissive right-to-carry laws could make it harder for police to use this law to deter gun violence. *[The New York Times, 1/11/11][15]*

In the same way, Webster says that when mass shootings occur many think that if only one of the citizens at the site had access to a firearm, they could have taken the gunman out and saved lives. It begs the question of whether it's sound public policy to allow anyone who is not prohibited by gun laws to carry firearms anywhere they choose. It is not clear that permissive right-to-carry laws have not increased violence.

There have been numerous studies of these laws, many of which have substantial flaws. The best study was done by Ian Ayres and John Donohue, law professors at Yale and Stanford, respectively, and disaggregates the effects for each state and type of crime. The estimates from their best models show right-to-carry laws associated with increases in 7 of 9 crimes studied, with the largest effect (+9 percent) being the crime many researchers would have hypothesized would increase – aggravated assaults.

If instead of observing the effects of right- to- carry laws we analyze the causes of the problem, it can show us another side of the story. Saying guns are the problem is like saying spoons are what make people fat. Maybe what EE.UU need to do is to regulate the size of spoons? But with guns, it's an equalizer. Firearms are easily sold in the United States without having background checks. This is needed to screen out criminals or the mentally ill. It is estimated that over forty percent of gun acquisitions occur in the secondary market. That means that they happen without a Brady background check- the Brady law requires that individuals seeking to buy a gun at a licensed dealer pass a background check-at a federally licensed dealer[16].

Sales from federal firearm licensees (FFLs) require a background check. Sales between individuals under federal law do not require a background check. This means that felons can "lie and buy" at gun shows and other places where guns are readily available. Convicted felons, the dangerously mentally ill, and other prohibited persons would not obtain guns if stronger gun laws and policies were implemented.

Likewise, accessible firearms may increase the lethality of violence. On the whole, guns are more likely to raise the risk of injury than to confer protection; reviewing several studies about the protection provided by guns, we know that a gun is 22 times more likely to be used in a completed or attempted suicide, criminal assault or homicide, or unintentional shooting death or injury than to be used in a self-defense shooting (Kellermann, 1998, p. 263). Guns are also used to intimidate and threaten 4 to 6 times more often than they are used to thwart crime (Hemenway, p. 269). If this is not enough, every year there are only about 200 legally justified self-defense homicides by private citizens (FBI, Expanded Homicide Data, Table 15) compared with over 30,000 gun deaths (NCIPC).

So, opposite to those who defend their rights to own a gun, there are others that believe that where there are more guns, there are more gun deaths. The prospect of facing armed opposition hardly dissuades mass murderers, like the Arizona gunman, who are determined to pursue their vengeful plan. In fact, many mass killers fully expect to die in battle; some even taking own life. The crowd that witnessed Saturday's rampage- Arizona's massacre- would have included citizens armed for protection, yet none apparently tried to fire at the assailant. Some may have been too surprised to react or they may have feared hitting innocent bystanders in the chaos.

To prove this, there have been some researches which conclude that an estimated 41% of gun-related homicides and 94% of gun-related suicides would not occur under the same circumstances had no guns been present (Wiebe, p. 780); higher household gun ownership correlates with higher rates of homicides, suicides, and unintentional shootings (Harvard Injury Control Center) and keeping a firearm in the home increases the risk of homicide by a factor of 3 (Kellermann, 1993, p. 1084). So public opinion on concealed carry laws will continue to be driven by political agendas as well as fear. It seems more guns means more guns, but not necessarily less crime.

Once considered both sides of this controversial subject, is it possible to give answer to the main question? As we

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saw during the study of each side's points of view, there are arguments and investigations that validate what each side defends. This happens because many studies are developed according to specific methods or different data that provide at the end the support that each side was looking for.

For instance, it was mentioned one study that showed the positive correlation between right-to-carry laws and crime, nevertheless a Criminologist Citing 2002 Study concluded that: "The effects of RTC Laws are negligible, neither encouraging nor discouraging mass murder." (Boston Globe's Crime & Punishment blog, 1/12/11) This is why the effectiveness of concealed-carry laws in deterring crime is an empirical question.

Despite not having an exact answer, it can be analyzed that both parts will never agree if the decision goes to one side, it is necessary to say that American citizens do have the right of keeping and bearing guns, but due to the laxity of laws to allow people to exercise this right can carry serious consequences, as we have seen in the past. To reach a middle ground, more than the removal of the Second Amendment, United States should propend for the compliance of laws that regulate the access to guns.

[1] "Firearms Fact Card, 2010." National Rifle Association, January 20, 2010. <http://www.nraila.org/Issues/FactSheets/Read.aspx?ID=83>

[2] Cornell University Law School, "Bearing arms: Second Statement", CRS Annotated Constitution. /Recovered 28 April 2011 http://www.law.cornell.edu/anncon/html/amdt2_user.html#amdt2_hd1

[3] Head, Tom. "Does the Second Amendment Protect the Right to Bear Arms?" / Recovered 28 April 2011 http://civilliberty.about.com/od/guncontrol/i/2ndamendment_2.htm

[4] In Oct. 16, 1991, in the Central Texas town of Killeen, a 35-year-old George Hennard of nearby Belton drove his pickup truck through a window at the Killeen Luby's and killed 24 people. The Chronicle's First Century. Aug 10 2001. /Recovered 28 April 2011. <http://www.chron.com/disp/story.mpl/first100/1001214.html>

[5] "Federal judge among dead in Arizona shooting". January 08, 2011. CNN Wire Staff. /Recovered 28 April 2011. http://articles.cnn.com/2011-01-08/justice/arizona.judge.obit_1_roll-arizona-shooting-tucson-division?_s=PM:CRIME

[6] National Rifle Association. Institute for Legislative Action. "The National Right-to-Carry Reciprocity Bill". 22 Feb. 2011. /Recovered 28 April 2011 <http://www.nraila.org/Issues/FactSheets/Read.aspx?id=189&issue=003>

[7] For 2008, see FBI, http://www.fbi.gov/ucr/2008prelim/table_1.html and factor in an estimated one percent increase in the U.S. population between 2007-2008. For data for 1991, see BJS, <http://bjsdata.ojp.usdoj.gov/dataonline/>.

[8] Lott, "Crime, Deterrence, and Right To Carry Concealed Handguns," The Law School , The University of Chicago,1996, /Recovered 28 April 2011 <http://www.law.uchicago.edu/publications>

[9] "Permit reciprocity" is the term given to a law that allows a person to carry a firearm within a state, if he has a carry permit issued by another state, and such permit meets the requirements of the state in which the firearm is carried.

[10] Targeting Guns, Aldine de Gruyter, 1997, p. 171.

[11] "Armed Resistance to Crime," Journal of Criminal Law and Criminology, Fall 1995, pp. 150-187.

[12] J. Wright and P. Rossi, Armed and Considered Dangerous: A Survey of Felons and Their Firearms, 1986, p.

U.S.A: More Guns, Less Crime?

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155.

[13] Stephen P. Halbrook, *That Every Man Be Armed*, The Independent Institute, 1994, pp. 17, 54.

[14] Dowlut, Knoop, "State Constitutions and The Right to Keep and Bear Arms," *Okla. City Univ. Law Review*, 1982, p. 183

[15] "*Fox & Friends* Hosts GOP Lawmaker To Push Myth That More Guns Deter Crime", *Media Matters for America*, 14 January 2011, Recovered 28 April 2011, <http://mediamatters.org/iphone/research/201101140031>

[16] Brady Campaign to Prevent Gun Violence. Facts. /Recovered 8 April 2011 <http://www.bradycampaign.org/facts/gunviolence>

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