

## **7. FIREARMS AND VIOLENCE<sup>1</sup>**

The Violence Commission concluded that firearms generally facilitate, rather than cause, violence. But it did observe that there were then an estimated 90 million firearms in the United States, which it described as a "domestic arms buildup." It recommended the "restrictive licensing of the handgun," designed to greatly reduce the number of handguns in the United States.<sup>2</sup>

### **Where We Are Now<sup>3</sup>**

There are now almost 200 million firearms in this country. They are no longer mostly designed for hunting and target-shooting. Today, most are high-powered, rapid-firing, easily-concealed weapons that have no other logical function than to kill humans. The impact of a flood of such weapons into an urban society is profound. Any confused teenager feeling disparaged by fellow students can blow a number of them away. A worker who has problems on the job can put an end to it with a massacre at the office. A litigant who feels wronged by the justice system can set it right by shooting up the courthouse. Most people resolve things in a more reasonable way -- but in a nation of 230 million people and 200 million firearms, the law of averages is producing a growing number of massacres.<sup>2</sup>

Public shootings in schools, places of worship and day care centers have replaced the political assassinations that held the nation's attention throughout the 1960s. Guns and violence are increasingly associated with children and youth, a connection that was not part of the 1960s as described in the Firearms and Violence chapter in the Violence Commission's final report. While much on this subject has changed, a great deal also remains unchanged. Firearm death rates today are strikingly similar to those of 1969, and African-Americans continue to suffer disproportionately high rates of firearm death.

As we begin the twenty-first century, perhaps the most powerful image of guns in America is the mass shooting. Embedded within that image is a new level of fear for the safety of our children, and a growing sense that we have a limited ability to protect our children from the behavior of a disturbed individual whose threat is made lethal by a gun. While mass shootings in places like Columbine High School have only recently become a familiar headline, the threat guns pose to the lives of our youth is one that predates the recent string of public massacres. In the 3 decades since the publication of the original Violence Commission report, guns have claimed the lives of American youth at rates that far exceed the level of that era.

If ever there was a metaphor for a failure of democracy, this may be it. Whether it is due to the political muscle of the gun lobby, the fear of the average citizen of the intruder in the night or public apathy, the American political system has spectacularly failed to produce a solution.<sup>3</sup>

However, the increasing rates of youth gun violence, in particular, have brought new partners to the effort of understanding and preventing firearm violence. In the last decades of this century, gun violence and its prevention have come to be viewed as much as public health issues as criminal justice issues. Public health professionals have brought new perspectives to the discussion of firearm violence, expanding the language of the debate and offering new approaches to the prevention of deaths and injuries that result from guns.

The involvement of our children as both victims and violent offenders raises the stakes surrounding America's relationship with guns. In 1969, the Violence Commission called for both federal and state legislation. In 1999, the need remains the same, but the states have become more innovative forums than the federal government. Whereas, in the 1960s, legislation focused on systemic approaches to limiting access to guns by high risk individuals, today's policies increasingly concern strategies to alter the design of guns as a means of reducing gun death and injury. In recent years,

litigation also has been recognized as a tool for prevention, as lawsuits raising questions about the liability and legal responsibility of firearms manufacturers grow. Litigation is increasingly being used by public entities and private victims alike in their search for justice amidst the suffering associated with lives lost, and the costs of gun-related injuries.

### **Guns in America**

The number of guns has increased at a faster rate than the population has grown.<sup>4</sup> Recent polling data suggest that approximately 38% of the nation's 103 million households contain at least 1 gun.<sup>5</sup> While the percentage of gun-owning households has declined, the number of guns within those households has increased.

The characteristics of the guns Americans are buying also have changed. Throughout the 1960s, handguns comprised an increasing percentage of total gun sales, a trend that continues today.<sup>6</sup> In contrast to long-guns, which primarily are used for sport, handguns generally are purchased for protection. The gradual shift in the market share of handguns has implications for firearms violence, which more often involves handguns. In 1997, 80% of gun homicides were committed with handguns.<sup>7</sup>

The growth of the protection market for guns is reflected in changing design characteristics of guns. Beginning in the early 1970s, an increasing number of easy-to-conceal pistols was being manufactured by the domestic Saturday night special industry that took root on the heels of the 1968 import ban of these guns. The palm-sized, low quality, inexpensive pistols are among the most frequent recovered by police and confiscated from youth.<sup>8</sup> In addition to their appeal to criminals and youth, Saturday night specials and the companies responsible for their manufacture also drew the attention of the gun violence prevention movement, which criticized the industry for producing guns associated with a disproportionately high risk of injury and death.

The development of a domestic Saturday night special industry, and the subsequent emphasis on concealability among the traditional gun manufacturers, are part of the larger growth of semi-automatic pistols within the handgun market. In 1987 production of semi-automatic pistols outnumbered that of revolvers, reflecting a shift toward the increasingly popular pistols that would continue through the 1990s.<sup>9</sup> Many of these pistols hold a larger number of bullets than revolvers, permitting longer chains of uninterrupted firing. Over the last 30 years, handguns have evolved into more efficient killing machines as the designs grew more compact and the ammunition capacity and caliber of the bullets increased.

Increases in semi-automatic pistol production have been accompanied by a new wave of advertisements designed to sway consumers toward the new handgun options. Fear of crime and the need to arm oneself against criminal threats are prominent themes in advertisements for semi-automatic pistols.<sup>10</sup>

## **Epidemiology of Firearm Death and Injury<sup>11</sup>**

Since the original Violence Commission report, an estimated 1 million people have been killed by gunfire in the United States.

People of all ages, races, and both genders are represented in these numbers. However, the burden associated with gun deaths and injuries falls disproportionately on certain subgroups within the population. In 1997, young adults aged 20-24 were killed by gunfire at a rate of 26 per 100,000—the highest rate among the age groups and more than double the total population rate of 12 per 100,000. Gun death rates among African-Americans that year were 2 and one-half times the rate for whites. In 1997 men were almost 6 times more likely to die by gunfire than women.

The most alarming trend over the past 30 years is the sharp increase in gun deaths among adolescent and young adult males. The high rates of 1993 marked the peak of this gun homicide trend. In the years that followed 1993, gun homicide rates began a slow decline, in part, we believe, because of the economic expansion (**Chapter 2**).

Nor does the recent decline in gun homicide rates in America change the nation's standing vis-a-vis other countries. The firearms death rate in the United States today is 8 times greater than those of 25 other wealthy nations combined.<sup>12</sup>

## Recent Trends in Firearm Legislation<sup>13</sup>

In 1969 the Violence Commission criticized the absence of an effective national firearms policy, describing the laws of that day as reactionary and piecemeal. Today's federal firearms policies may be described similarly. Promises of tougher firearms laws appear almost on cue in the flurry of activity following the public shootings that have become all too routine in this country. Given America's one dollar, one vote democracy and our failure to control monied interests through campaign finance reform, Congress has been unwilling to toughen the federal rules that govern the manufacture and distribution of firearms in this country. In response, however, the states and localities have emerged as the new centers of activity for the regulation of guns.

### State Legislatures

A few state legislatures have approved innovative gun violence prevention policies which include attention to the manufacture and distribution of guns, as well as their use.

Prohibitions on the manufacture of guns deemed high risk, such as Saturday night specials and assault weapons, have been approved by legislatures in several states. In addition, the manufacture and design of guns is central to state policy proposals to mandate personalized guns. Personalized gun legislation would require that guns be designed so that only authorized users can fire them. While personalized gun bills have been introduced in several states legislatures, such a mandate has yet to be elevated to the status of a law.

Several states have undertaken the sizeable task of regulating gun sales between 2 non-licensed gun dealers by mandating background checks of purchasers in these otherwise unregulated transactions. These secondary, or private, sales have long been viewed as a leading source of guns for criminals and youth, and are estimated to comprise 40% of all gun sales in this country.

Within the broad category of laws regulating gun use are laws which govern legal concealed gun carrying. During the last 5 years, many states have reexamined their policies on the legal carrying of firearms. Individuals may legally carry guns in public if they are in compliance with state and local laws. With few exceptions, a permit is required to legally carry a concealed weapon. The recent debate surrounding these laws concerns whether permits will be issued based on relatively strict criteria, requiring applicants to provide a reason for needing to carry a weapon in public, versus relatively lax criteria which essentially grant a permit to any individual who applies and is legally eligible to purchase and possess a handgun. Here, a promising model was a 1999 Missouri referendum. A proposal was defeated that would have allowed citizens to obtain permits to carry concealed guns. The gun lobby heavily outspent its opponents, but lost. Victory was achieved by a new alliance -- including both urban African-Americans and more conservative, suburban white "country club moms," "waitress moms" and "soccer moms."<sup>14</sup>

**Perhaps the best example of state progress is California. In 1999, California passed several restrictions:**<sup>15</sup>

- **Assault weapons:** Banned high-capacity magazines and "copycat" assault weapons designed to skirt restrictions on certain firearms. (The ban is tougher than federal law.)
- **Multiple purchases:** Limited the number of handguns an individual can purchase to 1 a month.
- **Gun shows:** Required certification of gun show promoters and prohibited minors from attending gun shows unless accompanied by an adult.
- **Gun locks:** Required all guns sold, transferred or manufactured in California to be equipped with a trigger lock or other safety device.
- **"Saturday night specials":** Restricted manufacture, importation and sale of cheap guns that don't meet basic safety standards.

As in Missouri, the gun lobby heavily outspent its opponents on these issues, but lost. As in Missouri, proponents of the California measures that

passed included a coalition of more progressive urban dwellers and more conservative suburban dwellers -- in part responding to recent school shootings. Because it is large and diverse -- and not necessarily as progressive as many people think -- California may be a partial model for the rest of the nation. Maryland may be emerging as another partial model.

### **Local Initiatives**

Gun policy initiatives have not been limited to the state level. The growing community level activism around guns and gun policy has resulted in local level initiatives in several states. Among the states, California localities would likely rank among the most active. Communities have successfully enacted gun policies in response to local needs by using zoning laws to keep firearms dealers who operate from their home (known as "kitchen table dealers") out of their neighborhoods, and by using the local legislative process to ban certain types of guns such as Saturday night specials and assault weapons.

### **Litigation**

Among the most radical and potentially the most influential changes in advocacy for gun violence prevention in the past 30 years is the use of litigation as a tool for reforming the gun industry.

Current litigation is an extension of a new way of looking at guns in general. For most of the latter half of the twentieth century, the focus of gun policy was on regulating the individuals who might criminally use a gun. By proscribing the purchase and possession of a handgun by a felon, and by enhancing the punishment of someone who used a gun in a crime, it was hoped that the incidence of gunfire would be reduced. But while lawmakers attempted to regulate who might use a gun, we essentially ignored those supplying the guns. We, as a society, focused on the person pulling the trigger and not the person making the trigger.

By the 1980s, however, the field of injury prevention began to look at gun-related injuries as a public health problem. When researchers considered the combined total of gun-related homicides, suicides, and accidental deaths, it was then understood that guns were the second leading cause of injury deaths in the United States, surpassed only by motor vehicle-related deaths.<sup>16</sup> For some segments of the population, such as young African-American males, death by gunfire was the number 1 cause of death. It has been suggested that the solution to this public health emergency required focusing not only on the behaviors of individuals, but on the involved product as well.<sup>17</sup> Historically, public health had found success in dealing with infectious diseases by controlling the vectors of the diseases, such as mosquitoes and rats. The vehicles of many homicides and suicides were guns, and the control of guns, it was argued, would be necessary to reduce the incidence of gun-related deaths.

For example, in 1999, the National Association for the Advancement of Colored People (NAACP) filed a class action suit against the gun industry. Rather than seek monetary damages, the NAACP has asked for an injunction against the gun industry's distribution and marketing practices that allow guns to wind up in the wrong hands. The suit argues that illegal trafficking of guns, made possible by failure to control distribution, disproportionately affects minority communities. Nationally, African-American males aged 15 to 24 are 3 times as likely to be killed by gunfire than white males of the same age group.<sup>18</sup>

Litigation is a proven strategy for compelling the safer design of injury-creating products.<sup>19</sup> Jurors, unlike legislators, do not seek re-election, and therefore may be more willing to take tough positions against a company that makes a dangerous product, even if the company or the product's users contribute significantly to election campaigns.

The most compelling gun cases that are now percolating their way through the courts are those that focus on the design and distribution practices of gun makers. With regard to design, plaintiffs are alleging that the incidence of gun-related deaths would be lower if the gun manufacturers used existing technologies to create a safer product. Loaded chamber indicators and magazine disconnect devices are 2 examples of technologies that have existed for about a century, but are still not found on most handguns. Magazine safety devices also can save lives.

created that will prevent the advertisement of guns on television, prevent the advertisement of guns in a jurisdiction if it is illegal to sell those guns in that jurisdiction, and prevent the depiction of children in gun advertisements.

## Notes

1. Unless noted otherwise, this chapter is based on Shannon Frattaroli and Stephen P. Teret, "Firearms and Violence," chapter prepared for this 30 year update. The chapter will be published in its entirety in the separate book to be released in 2000. See Chapter 1.
2. Fred Graham and Hugh Davis Graham, Foreword, chapter prepared for this 30 year update. The full chapter is found here as Appendix 4 and will be republished in the separate book to be released in 2000.
3. This section is based on Frattaroli and Teret, *op. cit.*, and Graham and Graham *op. cit.*
4. Philip J. Cook and Jens Ludwig, *Guns in America: Results of a Comprehensive National Survey on Firearms Ownership and Use* (Washington, DC: National Institute of Justice, 1997).
5. Stephen P. Teret, et al., "Support for New Policies to Regulate Firearms: Results of Two National Surveys," *New England Journal of Medicine*, September 17, 1998, pp. 813-818.
6. Bureau of Alcohol, Tobacco and Firearms. Unpublished data, 1999.
7. Federal Bureau of Investigation, *Uniform Crime Reports for the United States*, 1997 (Washington, DC: U.S. Department of Justice, 1998).
8. Garen J. Wintemute, *Ring of Fire: The Handgun Makers of Southern California* (Sacramento: Violence Prevention Research Program, 1994); Bureau of Alcohol, Tobacco and Firearms, *The Youth Crime Gun Interdiction Initiative, Crime Gun Trade Analysis Reports: The Illegal Youth Firearms Markets in 27 Communities* (Washington, DC: U.S. Government Printing Office, 1999).
9. Trudy A. Karlson and Stephen W. Hargarten, *Reducing Firearm Injury and Death: A Public Health Sourcebook on Guns* (New Brunswick: Rutgers University Press, 1997).
10. Garen J. Wintemute, *Advertising Firearms as Protection* (Sacramento: Violence Prevention Research Program, 1995); Jon S. Vernick, Stephen P. Teret and Daniel W. Webster, "Regulating Firearm Advertisements that Promise Home Protection: A Public Health Intervention," *Journal of the American Medical Association*, May 7, 1997.
11. This section is based on Frattaroli and Teret, *op. cit.*
12. Sugarman, *op. cit.*
13. This section is based on Frattaroli and Teret, *op. cit.*
14. E. J. Dionne, Jr., "NRA Defeat," *Washington Post*, April 16, 1999, p. A29.
15. Rene Sanchez, "With Aid of GOP Converts, Gun Control Sweeps State," *Washington Post* October 23, 1999, p. A1.
16. Garen J. Wintemute, "Firearms as a Cause of Death in the United States, 1920-1982," *Journal of Trauma*, May 1987, 532-536.
17. Stephen P. Teret, Greg R. Alexander and Linda A. Bailey, "The Passage of Maryland's Gun Law; Data and Advocacy for Injury

Prevention," *Journal of Public Health Policy*, Spring 1990, 26-38.

18.*New York Times* editorial, "Guns, Television and Minorities" *New York Times*, July 14, 1999, p. A22.

19.Stephen P. Teret, "Litigating for the Public's Health," *American Journal of Public Health*, August 1986, 1027-1029.

20.*Hamilton v. AccuTek, et al.*, 1999 U.S. Dist. Lexis 8264 (E.D.N.Y.)

21.Sugarman, op. cit.

22.Ibid.

23.Unless otherwise noted, this section is based on Frattaroli and Teret, op.cit.

24.Sanchez, op. cit.

## 8. A NEW POLITICAL ALLIANCE

Ultimately, through campaign finance reform, a communicating what works movement, and related grassroots advocacy, we need to create a new voting majority, a new political alliance in America. The alliance must bring together middle income Americans (who often need 2 or 3 jobs in the family to make ends meet), wage earners (who need to be reminded that their CEOs earn on the average 419 times as much as they do), and the poor (who suffered in the 1980s and hardly improved in the 1990s).

What are the common grounds for such a new political alliance? One common ground is resentment over an unfair economic deal. We know from Sophie Body-Gendrot at the Sorbonne that large majorities already exist in 5 European countries and in Japan that want public policies to reduce economic inequalities. And now we have at least some evidence that middle and working income Americans appear to be resentful of CEOs with excessive salaries and stock options, according to surveys by Alan Wolfe at Boston College. Such rewards to CEOs are perceived by many middle and working income people interviewed by Wolfe as disconnected from the efforts that go into securing them. Like "welfare mothers," the wealthy rewardees are perceived by many as not earning their money. This, suggests Wolfe, makes the rich politically vulnerable -- especially given the enormous income, wage and wealth gaps that have opened in the 1980s and widened in the 1990s.<sup>2</sup> Middle income and wage earner families, including those with both parents working, may respond to messages like "reduce affirmative action for the rich" and "get corporations off welfare."

Resentment over an unfair economic deal is not the only common ground that middle and working income people share with the poor. They all share, as well, a vulnerability to the technological global marketplace. As Jeff Faux has observed, middle income people, wage earners and the poor all need education and re-education, job training and re-training, to compete.<sup>3</sup> Can we secure a voting majority around government-facilitated education and training? The answer may be yes, based on new national surveys of voters by the Pew Research Center for People and the Press<sup>4</sup> and especially by Albert H. Cantril and Susan Davis Cantril.<sup>5</sup> For example, the Cantril surveys show voter disagreement philosophically on the role of government in the abstract. But the Cantril surveys also identify majorities in terms of voter support for specific, pragmatic government investments. Such investments include increased spending on Head Start, teacher subsidies, college student aid and job training. *The Cantril findings fit well into our frame of program-selective urban and criminal justice investments based on more of what works and less of what doesn't, along with our recommendation of an economic investments based on the elimination of child poverty and the creation of full employment, especially for the hard to employ.*

It will be easier to secure a voting majority around these issues of education and jobs than around issues like media entertainment violence and handgun violence. But here, too, there are some promising trends -- like the new anti-handgun alliances between central city voters and more conservative, suburban, soccer mom voters. As one unifying theme, campaign finance reform embraces *all* of these issues.

In the late 1960s, after numbing assassinations and street riots, and with an understanding of how America's culture of violence produced rates far higher than other industrialized nations, the National Violence Commission concluded that the greatness and durability of most civilizations has been finally determined not by external assault but by internal decay.<sup>6</sup> Our civilization will be no exception.

The challenges within America require vision, not incrementalism and policy bites. Vision is needed from the grassroots to the White House. We need big solutions to big problems. That is what America always has been about. It is about dreaming and trying to fulfill those dreams, however long they may have been deferred.

In the words of historian James MacGregor Burns, "While centrists cautiously seek the middle way, leaders in science, technology, education, entertainment, finance and the media pursue their own transforming visions."<sup>7</sup> Isn't it time to establish justice and insure domestic tranquility through