

Trigger-Happy: Re-thinking the “Weapons Effect”

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The “Weapons Effect” hypothesis suggests that guns can psychologically control people and cause them to be violent. In this article, Paul Gallant and Joanne D. Eisen analyze previous research about the weapons effect and examine more recent studies to test their agreement with the hypothesis. The authors conclude that evidence does not support the “Weapons Effect” hypothesis, and therefore, firearms policies premised on the existence of a “Weapons Effect” may be harmful. Paul Gallant and Joanne D. Eisen are Senior Fellows at the Independence Institute in Golden, Colorado.

“The accessibility of a firearm permits the instantaneous metamorphosis of a law-abiding (hot-headed?) person into a murderer.” Those words were penned by Lester Adelson: twenty-two years ago. Adelson had perfectly articulated the “weapons effect” hypothesis: guns provoke impulsive, violent responses, and the presence of firearms anywhere (except in the hands of certain government employees) is therefore to be feared.

An armed neighbor, going berserk without warning, is the stuff of nightmares. Can firearm madness suddenly afflict any of us simply because of proximity to a gun? If so, with firearms present in about half of all American households, is there not ample reason to fear our next-door neighbors and their children?

On April 9, 2002, 42-year-old Seaside Heights, New Jersey, off-duty police officer Ed Lutes “snapped” and went on a shooting rampage.ⁱⁱ Armed with a handgun and a rifle, Lutes killed five people and wounded his own police chief, before turning one of the guns on himself and committing suicide. The incident received national media attention.

Lutes had no known history of mental illness. As more information about the incident came to light, it was learned that the relationship between Lutes, a decorated 15-year veteran and member of his department’s S.W.A.T. team,ⁱⁱⁱ and many of his neighbors was less than cordial. A law enforcement source said that one of the victims had recently been acquitted of sexually assaulting a member of Lutes’ family.^{iv}

Few of us like all our neighbors. But then, few of us set out on a homicidal rampage to eliminate those neighbors whom we dislike. Was the presence of a firearm responsible for Ed Lutes’ shooting rampage, and if so, in what way?

According to the weapons effect hypothesis,^v the presence of a firearm triggered an already-angered Lutes to violence.^{vi} However, two other assumptions about firearm-related violence have become murkily intertwined with the weapons effect hypothesis. The accessibility thesis^{vii} tells us that the pervasive presence of firearms in Lutes’ life was the predominant factor that allowed him to override what he perhaps viewed as a too-easily forgiving criminal justice system. The instrumentality thesis^{viii} tells us that if Lutes had not had access to a firearm, he would have used a less lethal means for acting out his aggression, and six people might still be alive today, albeit injured.^{ix}

This triad comprises the key premises used to justify many contemporary restrictive gun initiatives.

I. PREVIOUS RESEARCH

A. Berkowitz and LePage

The weapons effect hypothesis dates back to a 1967 article by psychologists Leonard Berkowitz and Anthony LePage.^x “Weapons as Aggression-Eliciting Stimuli”^{xi} summarized the results of their experiment on 100 male undergraduate psychology students at the University of Wisconsin. Berkowitz and LePage proposed that the mere sight of a firearm could trigger aggression from an “already angered” person because of the learned association between violence and guns.

In this experiment, each subject was paired off with a partner. Test subjects were informed that they were participating in a study of “physiological reactions to stress” during problem-solving tasks. The subjects did not know that their partners were actually confederates of the two researchers.

During the experiment, subject and confederate were placed in separate rooms. Mild electric shocks, the “stress” component, were administered by the confederate. The subject was told that the number of shocks would be based on the quality of his performance of a task; the greater the number of shocks administered, the poorer job performance was judged to be.^{xiii} However, the number of shocks administered by the confederate was predetermined (either one shock, or seven), and was independent of the performance of the subject.

Berkowitz and LePage reasoned two groups of subjects would be created. The group of “angered” subjects received the maximum number of shocks, thereby making them “physically uncomfortable.” The researchers believed they were made to feel “humiliated.” The control group of “unangered” subjects received just one shock from their confederate partner.

For the second part of the experiment, the pair exchanged rooms and the subject was seated at the table upon which the “shock key” was placed. The subject then “graded” the confederate partner’s job performance. Some of the time, a 12-gauge shotgun and .38-caliber revolver were casually and inadvertently, the subject was told, left in plain view on the table. In all instances, subjects were told the guns were to be “disregarded.”

Berkowitz and LePage interpreted the number of shocks administered to the confederate lab partner as a measure of aggressive behavior on the part of the subject.^{xiiii} The “angered” group of subjects administered a greater number of electric shocks to the confederate, and held the shock key down longer, when the shotgun and revolver were left on the table next to the subject, compared to when nothing or neutral objects such as badminton racquets and shuttlecocks were present.

Berkowitz and LePage concluded: “If a person holding a gun fires it, we are told either that he wanted to do so (consciously or unconsciously) or that he pulled the trigger ‘accidentally.’ The findings summarized here suggest yet another possibility: The presence of the weapon might have elicited an intense aggressive reaction from the person with the gun, assuming his inhibitions against aggression were relatively weak at the moment.” In discussing the experiment in *Psychology Today* a year later, Berkowitz flatly stated: “Guns not only permit violence, they can stimulate it as well. The finger pulls the trigger, but the trigger may also be pulling the finger.”^{xiv}

B. Failed Attempts at Replication

As Kellermann has pointed out, “the strongest proof of the validity of any study is independent replication by others.”^{xv} Subsequent attempts to reproduce the findings of Berkowitz and LePage have met with mixed results, even when researchers strictly followed the original design and procedures.^{xvi}

Several researchers discovered that the presence of firearms appeared to create an aggression-inhibiting effect, *i.e.* a negative weapons effect. As Toch and Lizotte noted, “many studies have failed to replicate the Berkowitz and LePage findings and some have even reported opposite findings.”^{xvii}

It would be worthwhile to further examine aggression-inhibiting effects of weapons to achieve a better understanding of this laboratory phenomenon. If such an effect were indeed valid, both inside and outside the laboratory, then understanding the effect might help in defining policies that make for a less violent society.

Similar observations were made by Carlson, *et al.*^{xviii} who acknowledged the occurrence of “frequent failures to replicate the weapons effect” and that “outcomes opposite to the predicted direction of [the] effect are fairly common.” To systematically assess how subjects react to unpleasant cues in their environment, they analyzed the results of twenty-three experiments. Among the cues to which subjects were exposed in an attempt to elicit aggression were: hostile verbalizations, actual weapons or pictures of weapons, bumper stickers with a hostile theme, the pointing out of unpleasant physical characteristics of the subject, and even Ku Klux Klan-like clothing. Although some cues aroused significant aggression, in those studies limited to the use of actual weapons there was as much inhibition of aggression as there was stimulation of aggression, and “a nonsignificant, near-zero average effect-size value was obtained.”

Kleck^{xix} analyzed twenty-one “weapons effect” studies and observed that “The ‘weapons effect’ has been detected only among people with no prior experience with guns.” He also observed, “the more closely the experiments simulated real-world situations . . . the less likely they were to support the weapons hypothesis.” This is not surprising in view of the fact that the consequences of the actions of the experimental aggressors

were neither serious nor permanent. It is quite another thing when the consequences of one's actions can be lethal, or when there is a significant risk of punishment by the law.

C. Subject Non-cooperation

Toch and Lizotte also questioned whether the results of this type of laboratory study could be extrapolated to the real world.^{xx} The problem lies in the inherent limitations of laboratory settings. In a discussion of the attempts of subsequent researchers to replicate the original findings of Berkowitz and LePage, Zillmann^{xxi} emphasized the fact that the weapons were placed at the center of attention during the experiment, noting that “This element of procedure has sparked considerable controversy and in fact has led to the faulting of the original findings.”

Zillmann also pointed out that many subjects, on seeing the weapon, instinctively understood that there was some hidden motive for its presence despite the elaborate cover story provided by the various researchers.^{xxii} One team of researchers found that hostility was directed toward them because of the fabricated cover story, rather than toward the lab partner. This, they believed, may have accounted for the fact that some subjects “were non-cooperative, seeming eager to thwart the experimenter's efforts and to ‘louse up’ the experiment.”^{xxiii}

Ellis, et al,^{xxiv} noted: “We tried various ways of convincing the subject that the weapons he saw belonged to his student-partner—he was going hunting after the experiment, he was from ROTC, and so on. None of these worked. On more than one occasion subjects actually burst out laughing at our efforts. The reaction seemed to us to be perfectly justified.” What average person would expect to find a shotgun and revolver casually lying next to him in the course of a psychology experiment?^{xxv}

The only evidence in the literature that appears to support the validity of a weapons effect hypothesis outside the laboratory setting is derived from a study on homicides in Ohio.^{xxvi} The interpretation of this data, however, is dependent on the objectivity of the researchers; and the intellectual honesty of the convicted offenders they studied.

One of the stated purposes of the study was to “identify situational or environmental factors related to the homicide.” The researchers interviewed 50 persons convicted of committing a firearm-related homicide between 1982 and 1985. They noted, “Forty-eight percent [of the perpetrators] reported they didn't intend to shoot the victim when they drew the weapon ... [F]indings from this investigation suggest that the homicide was an impulsive act committed with a readily accessible firearm. .”

If the perpetrator had no intention of firing the gun, then one might logically conclude that the perpetrator had no control over his or her actions. Therefore, “the trigger pulled his finger,” and “the gun made him do it.”

While Wright and Rossi also noted a high percentage of “weapons effect excuses” from this same type of data, their interpretation was entirely different. They ascribed an ulterior motive for claiming that the firing of the gun “just happened” as an attempt by the perpetrator “to present his gun use in as sympathetic fashion as possible.”^{xxvii}

Since violent criminals today know that they will be held less culpable for their actions by a judge and a jury (and society) by offering such an excuse, many criminals do just that. They reinforce the perception that the weapons effect hypothesis has validity, a perception readily accepted (and perpetuated) by those who are gullible or politically-biased.

D. Anderson's Word-Response Tests

Anderson, et al,^{xxviii} gave *prima facie* validity to the weapons effect hypothesis. Their study, consisting of two separate experiments, was intended to validate the cognitive priming process,^{xxix} the currently accepted theoretical mechanism by which the weapons effect is thought to operate.

Citing the original Berkowitz and LePage experiment, they stated: “[M]ore than three decades later, it is clear that this ‘weapons effect’ is real. It has been observed...in field settings as well as the psychological laboratory....It is clear that the presence of a weapon—or even a picture of a weapon—can make people behave more aggressively. In essence, the gun helps pull the trigger.”

The authors, however, cited no evidence to support their claim that the weapons effect has been observed “in field settings,” or that people behave more aggressively in the presence of a weapon outside the artificiality of a laboratory setting. They simply identified research that was done in the outdoors instead of in a laboratory room.

In a 1975 experiment, for example, Turner, *et al.*^{xxx} had a confederate stop his pick-up truck at an intersection and remain stationary after the traffic light had turned green. The subjects in the experiment were the drivers stuck behind the immobile truck. Sometimes the truck had a rifle mounted on a gun rack plainly visible to the driver of the car, and sometimes there was no rifle present. Aggression was measured by the amount of horn-honking that ensued when the driver of the car was unable to proceed.

While this may technically be classified as an experiment conducted in a “field setting” since it was conducted outside of a conventional laboratory, to claim that the outcome had any relation to the “weapons effect” is scientific sleight-of-hand and outright misrepresentation. All the horn-honking in the world does not translate to a real-world manifestation of the “weapons effect” as defined by Berkowitz and LePage.

In Anderson’s first experiment, the subject sample consisted of 35 undergraduate students, approximately an equal number of men and women ranging in age from 18 to 24 years enrolled at the University of Missouri (Columbia). Subjects were told that the purpose of the study was “a test of reading ability of various types of words.”

Stimuli were presented to the subject on a computer screen in the form of “prime” words, and “target” words which were categorized as either “aggressive” or “non-aggressive.” Two categories of prime words were used: weapon words (*shotgun, machete, fist, bullet, dagger, and grenade*), and animal words (*rabbit, bug, dog, bird, butterfly, and fish*).

For the experimental procedure, a prime word was presented to each subject for 1.25 seconds, followed by a blank screen of 0.5 seconds duration. Then, a target word was presented. The subject’s task was to recite the target word as quickly as possible. The computer was equipped with a microphone to measure the time between the presentation of the target word and the first sound made by the subject.

In this part of the study, the researchers found that, on animal-primed trials, subjects were 0.005 seconds^{xxxi} slower at naming aggressive target words than at naming non-aggressive words. For weapon-primed trials, however, subjects named aggressive target words 0.009 seconds faster than they named non-aggressive words. The authors claimed that these results provided “clear support for the priming interpretation of the weapons effect,” *i.e.* that “the mere cognitive identification of a weapon increases the accessibility of aggression-related concepts in semantic memory.”

In the second experiment, the subject sample consisted of 32 male and 61 female psychology students also enrolled at the University of Missouri (Columbia). This time, subjects were told they were participating in a study of “accuracy and speed at reading.”

Instead of words, however, the prime stimuli consisted of black-and-white line drawings of weapons (guns, swords, and clubs—3 different pictures for each category, for a total of 9 weapons) and of plants (fruits, trees, and flowers, also 3 different pictures for each category).^{xxxi} The prime stimulus was presented as in the previous experiment, and the subject was instructed to call out the category as quickly as possible. Again, a blank screen appeared for 0.5 seconds. Then the target word was presented and remained visible on the screen until the subject called it out.^{xxxi}

The researchers found that after exposure to plant pictures subjects were 0.005 seconds faster at naming aggressive target words compared to non-aggressive words. However, after exposure to weapon pictures, subject reaction time decreased, and subjects were 0.011 seconds faster at naming aggressive target words compared to non-aggressive words. “Thus,” the authors state, “the overall weapons effect was 6 ms” (0.006 seconds). In making this statement, it is clear that the authors have confused a measurement of the theoretical cognitive priming process with the so-called “weapons effect” in essence creating a “weapons effect” out of thin air.

The authors concluded: “These two experiments demonstrate that simply identifying weapons increases the accessibility of aggressive thoughts . . . that thinking about weapons increases accessibility of aggressive concepts in general....Does the gun pull the trigger? Extant research suggests that it does. Our research demonstrates one way that exposure to weapons might increase aggressive behavior—by increasing the accessibility of aggressive thoughts.”

But did the authors really demonstrate what they claimed?

Insomuch as “gun” might well be associated with “shoot” or “murder,” when it comes to the non-weapon primes they selected, there is no such logical link. For example, while butterfly was used as a prime word, the words “flutter,” “fly,” and “cocoon” were nowhere to be found. If the idea was to explore whether a certain word would trigger a class of words, such as “gun” triggering the entire class of aggressive words, why did not the authors compare this effect with similar effects for animal primes? The word “rabbit” is likely to trigger “carrot,” “ears,” “chew,” and “hop,” but that was not tested. In addition, potentially threatening primes like “lion,” “shark,” or “rattlesnake” should have been used to determine whether these would have elicited the same aggressive tendencies. If they had been used, and the same effect found regardless, the argument would be much more compelling.^{xxxiv}

Although the currently accepted explanation of priming processes may have merit, the presumption that these laboratory pathways lead to inappropriate action outside the laboratory setting has not been scientifically validated. There is no evidence that aggressive action will follow even the most aggressive thoughts. Using scientific-sounding language to obfuscate the lack of hard data implicating the weapon as the culprit constitutes subversion of the scientific method. The researchers’ statement “if a person is struck in the back and experiences pain—the activation input gained from the mere presence of the gun may be sufficient to trigger the retaliation script...” amounts to the political abuse of science.

II. PREDICTIVE VALUE OF THE WEAPONS EFFECT HYPOTHESIS

Aside from laboratory replication, another means of determining the validity of a hypothesis is to examine how well it predicts the future, compared to what would be expected on the basis of chance alone. In the case of the weapons effect hypothesis, those predictions have not fared well.

A. Ordinary People

If guns facilitated the transformation of ordinary people into killers, it would be reasonable to expect to find ordinary people killing victims all over the country. They are not. Instead, we know that the best predictor of violent behavior by a person is not proximity to a weapon, but prior violent behavior. Adelson insisted that “The killers are ‘typical Americans’, 70 percent of their victims are friends or relatives.”^{xxxv} Yet as Suter pointed out, “the FBI’s definition of acquaintance and domestic homicide requires only that the murderer knew or was related to the decedent. That dueling drug dealers are acquainted does not make them ‘friends.’”^{xxxvi}

It would also be reasonable to expect that, if the weapons effect hypothesis were correct, as the number of guns in America rose, so should firearm-related violence. During the last fifty years, per capita firearm ownership increased by more than 250 percent, and the size of the civilian gun stock increased by 500 percent.^{xxxvii} In 1945, the size of the civilian gun stock (long guns and handguns) was estimated to be about 47 million guns. By 1975, this figure had jumped to nearly 140 million and by 1994 that figure had jumped to about 236 million. The weapons effect hypothesis predicts that we should have seen a steady increase in violence, and we did not.^{xxxviii} In fact, while the last 20 or so years were characterized by significant fluctuations in the overall U.S. homicide rate,^{xxxix} the Centers for Disease Control and Prevention reported that, between 1993 and 1997, the firearm-related death rate had dropped to the lowest level in more than 30 years.^{xl}

In a pivotal study on defensive gun use in America, Kleck and Gertz^{xli} found that only 24% of people who use guns defensively actually fired the gun. As Kleck later commented, “More commonly, guns are merely pointed at another person, or perhaps only referred to (“I’ve got a gun”) or displayed, and this is sufficient to accomplish the ends of the user.”^{xlii} How, then, is it possible to reconcile the weapons effect hypothesis with the finding that even when being criminally attacked or threatened, 76% of defensive gun users did not fire their gun?

B. The Rochester Study

Of particular relevance to the weapons effect hypothesis is some of the data from the Rochester Youth Development Study.^{xliii} This ongoing study tracked approximately 1,000 7th and 8th grade adolescents for a period of 4-1/2 years—until they reached 11th and 12th grade, respectively.^{xliv}

The subjects were students from the Rochester, New York, public school system who, at the commencement of the study, were in attendance during the 1987-88 academic year. The researchers noted that the sample population represented the entire range of 7th and 8th grade students. They intentionally, however, selected more students from high-crime areas, and fewer from low-crime areas, because their goals were to identify factors that led to delinquency and drug use, and to develop policy initiatives for reducing such activity.

One aspect of the study's analysis was to determine how the pattern of firearm acquisition and possession by juveniles affected their behavior. For this part, the subjects were limited to males,^{xlv} and three groups of adolescents were identified: those who owned legal guns initially comprised 3% of the sample (approximately 20 boys); those who owned illegal guns comprised 7% of the sample (approximately 47 boys). The remainder, about 605 boys, reported that they did not own a gun. This information on gun ownership was obtained at the time the youngsters were in 9th and 10th grades when most were 14 and 15 years of age.^{xlvi}

It is of special interest that the least violent of these three juvenile groups were young gun-owners who had been "socialized" into gun ownership through a family member—usually the father. As the researchers noted: "Parents who own legal guns socialize their children into the legitimate gun culture. Those parents who do not own guns are unlikely to socialize their children in that manner."

Among the study's specific findings were that children who acquired guns in a lawful manner (from relatives) never committed firearm-related crimes (0%), whereas children who acquired guns illegally often did so (24%; compare this to 1% in the non-gun-owning sample who did so). Children who acquired guns in a lawful manner were less likely to commit any kind of street crime (14%) than children who did not own guns (24%), or than children who acquired a gun illegally (74%).

The presence of firearms in their lives apparently reduced socially undesirable aggressive behavior among the group of legal gun-owning children. This phenomenon should be explored more fully in order to determine how placing a lethal weapon in the hands of an adolescent can restrain aggressive impulses.

Although the Rochester study was not intended to be an investigation of the weapons effect hypothesis, the study provides another means of assessing validity of the hypothesis. If there is a weapons effect, adolescents should have exhibited it, since the emotional stability of this age group tends to be more turbulent than in adulthood.^{xlvii} As any parent of an adolescent knows, heated, passionate arguments and other lesser conflicts are inevitable during this period. While firearm-related crime committed by some of the gun-owning boys did take place, delinquent behavior facilitated with the use of a gun is premeditated, not an "act of passion." Premeditated violent crime does not fall under the purview of the impulsive behavior predicted by the weapons effect.

Every one of the study's youngsters had a gun within easy reach or knew where to find one quickly.^{xlviii} Lizotte and Krohn^{xlix} noted that "those desiring a handgun have no trouble obtaining them from an underground economy." Yet not one of the subjects grabbed for a gun in the heat of the moment and shot his mother, his father, his sister, or his brother. Doors may have slammed shut with explosive force, expletives may have been lobbed around—but bullets didn't whiz by. How can this finding be reconciled with the predictions of the weapons effect hypothesis?

III. IMPLICATIONS OF THE ROCHESTER STUDY

The lesson to be learned, however, is more than just the lack of weapons effect validity: the Rochester study shows how attempts to extinguish America's traditional gun culture may result in unintended societal problems. The differences in behavior between the group of young gun-owners who have been socialized into the gun culture through the family, and those who have not, are significant and their ramifications profound.

For example, let us review the issue of firearm safety. That gunowners in the U.S. are overwhelmingly safety conscious can be inferred from the ever-downward spiral of firearm-related accidental deaths which

continues to this day.¹ It is reasonable to assume that when an adult presents a gun to a child, the safety of the child—and those around him—become of paramount concern to that adult. The adults have a high stake in teaching the child to safely and responsibly handle that gun, respect for what the gun can do, and a detailed knowledge of how the gun works.

Contrast the teenager who is taught about guns by an adult family member with the youngster who acquires a gun illegally—from the black market, or from a friend (who may have acquired the gun illegally, too). All knowledge about the use and workings of that firearm is learned in a clandestine manner necessitated by the legal consequences of discovery of possession of that firearm.

Because of today's almost unintelligible, often contradictory and complex maze of firearm laws—especially those that pertain to possession and use in an urban setting—adults are increasingly unable to take children to the local range for target practice, or to seek out the help of professionals for safety and marksmanship training. Under such circumstances, knowledge of how a gun works, and what it is capable of, is determined by what is learned on the street and what is seen in the movies and other media—not necessarily accurate sources for the responsible handling of firearms.

In America, firearm ownership continues, for the most part, to be kept in the family, handed down from one generation to the next. But near-prohibitory firearm controls will ensure that the primary modality for youngsters to learn about guns changes. Summarizing the Rochester evidence, Lizotte and Tesoriero concluded: “Boys who own legal guns are socialized by their parents and pose no threat to society....general policies should *not* be targeted at youth (and their fathers) who own guns for legitimate purposes.” (emphasis in original). Removing adults from the cycle of firearm ownership may threaten the present declining trend of firearm-related accidents and may also perversely change the nature of America's traditional peaceable sporting gun culture.

Weapons effect fear is being used to incrementally destroy the most socially beneficial means of introducing children to a wholesome gun culture. During the last decade, the number of schools that have rifle teams dramatically declined.² Only in certain locations, it appears, are gun-owning parents willing to make a determined commitment and resist social pressures within the school system.³

IV. REDUCING GUN AVAILABILITY

Since any one of us might become an unpredictable perpetrator of firearm rage, weapons effect proponents use their model as a justification for decreasing firearm availability to everyone. Kleck termed this the “blunderbuss” approach, premised on the supposition that “it is impossible to distinguish between low-risk and high-risk candidates for gun ownership, that everyone is a potential killer, and that serious acts of violence and other criminal acts committed with guns are common among people with no previous record of violence.”⁴

This rationale forms the basis of gun surrender programs, which encourage firearm owners to turn in their guns to the government in exchange for money or some other inducement. Such programs would make sense if the weapons effect hypothesis were indeed valid. Even if criminals did not give up their guns, fewer non-criminals would succumb to the aggression-evoking madness caused by proximity to a firearm, thereby resulting in lowered levels of firearm-related violence.

Has this been the case?

In April 2000, the Clinton administration allocated \$2.6 million to fund the BuyBack America campaign, an 84-community program designed to “buy back⁵ unwanted guns and raise awareness about gun safety.” Kansas City, Kansas, mayor Carol Marinovich praised the program, stating: “The gun buyback program is an important step toward making our community safer.”⁶

Such a claim, however, was made without any social science evidence.

Romero, *et al*,⁷ declared that “Exposure to a gun—particularly a handgun—has repeatedly been associated with a substantial increase in risk of fatal firearm violence.” They claimed that “Gun exchange programs may reduce risk for firearm violence among some participants...” However, the authors made no attempt to measure whether there was any actual reduction in firearm-related violence attributable to the surrender program. In fact, they measured only characteristics of people turning in their guns.

Three years later, Yurk, *et al*,⁸ reported on a firearm surrender program in Portland, Oregon sponsored by Ceasefire Oregon. The program operated on two consecutive Saturdays each year between 1994 and 2000.

The authors described the media campaign which preceded the annual event. In addition, they noted, “The gun turn-in program was linked to an educational program^{lviii} targeting all sectors of the community [especially, physicians and schools] on the many aspects of gun danger” throughout the year. Among the specific messages emphasized was that “a gun in the home is a danger to you and your family.”^{lix}

No attempt was made to determine changes in outcome measures of firearm mortality or morbidity. Indeed, the authors cited the study by Romero, *et al*, and acknowledged that “Gun Turn-In programs . . . have demonstrated very little impact on other community indicators such as firearm injuries, deaths, and crimes.”

Wintemute later offered a rationale as to why research on gun surrender programs does not show a reduction in violence: “Buybacks remove generally no more than 1 or 2 percent of the guns estimated to be in the community.” It is only because of such insignificant numbers that “there has never been any effect on crime results seen.”^{lx}

The result of removing a large quantity of firearms from a population has indeed been studied. Meddings and O’Connor^{lxi} measured the incidence of weapon injuries before and after a U.N.-mediated peace agreement in northwestern Cambodia in the early 1990s. Although it was estimated that “around 25-50% of [Cambodia’s combatant factions were]..believed to have been disarmed”^{lxii} during the peacekeeping operation, and although a stable government was left in place at the time of departure of the U.N., no reduction in firearm-related violence was observed. What Meddings and O’Connor found, instead, was that firearm-related injuries rose.

If the weapons effect hypothesis or accessibility thesis were valid, at least some decrease in firearm-related injuries should have been evident.

V. REDUCING GUN AVAILABILITY BY CONTROLLING THE TRIGGER

Mandatory “trigger-lock” or “safe storage” laws have been increasingly proposed as reasonable firearm safety measures. Have these lessened firearm-related injuries? In theory, these laws reduce the number of firearms available for immediate access and also the potential for unauthorized use.

It is an implied underlying fear of firearms, rooted in the weapons effect hypothesis that is the selling point for such regulations. Emotion sometimes substitutes for fact, and the harms of private firearm ownership are emphasized while the benefits ignored.

For example, in 1998, Sen. Richard Durbin (D-IL) called on Congress to enact legislation requiring gun-owners to secure their firearms when not in use or face criminal charges.^{lxiii} Violations would result in fines up to \$10,000 and a year in prison. Said Durbin, “I am sorry to tell you that I can give you two reports today from this weekend of children killing children with guns^{lxiv} they took from their parents. I am sorry to report to you that by next weekend I’ll be able to give you even more.”

In 1999, Illinois Gov. George Ryan signed into law a measure that would require gun owners to keep their guns locked away from children under 14 living in the same household.^{lxv} Said Ryan, “This law is designed to prevent innocent children from injuring or killing themselves or others.” What Ryan failed to point out was that such incidents are a statistical rarity. He further failed to disclose the costs of complying with his proposal.

Do these laws work as their proponents promise? There is strong evidence to show that just the opposite is the result.

In 1999, McClurg predicted that with the implementation of a Federal child access prevention law (i.e. trigger-lock or “safe”-storage law), there would be a reduction in firearm deaths and injuries of all types.^{lxvi} He described the problem of rendering such a secured firearm ready for self-defense, if the need arose, as “nonexistent.”

That was not the case in Merced, California, in August 2000, when an insane pitchfork-wielding man attacked Jessica Carpenter’s 7-year old brother and 9-year-old sister.^{lxvii} Jessica’s father had kept a gun in the home, and his children had learned how to fire it. Jessica, age 14, was a very good shot. But by California law,^{lxviii} the gun had to be locked up when the parents were not home. When the murderer attacked, Jessica was unable to retrieve the gun to save her siblings. She ran to a neighbor, and begged for help, but the neighbor refused to intervene. By the time the police showed up, a 7-year-old boy and 9-year-old girl had been gruesomely stabbed to death with the pitchfork.

The children's great-uncle said, "If only Jessica had a gun available to her, she could have stopped the whole thing . . . Maybe John William and Ashley [Jessica's younger brother and sister] would still be alive." He added that their father "was scared to death of leaving the gun where kids could get it because he's afraid of the law. He's scared to teach his children to defend themselves." In the end, it was compliance with California's "safe"-storage laws—and the fear of being prosecuted for their violation—that resulted in the loss of the two Carpenter children. This tragedy represents the hidden cost of what many refer to as reasonable gun laws, and it's rarely talked about by "safe"-storage advocates.

Compare the Merced outcome to what happened in South Bend, Indiana.^{lxix} On the evening of February 4, 2002, an 11-year-old boy found his grandmother, Sue Gay, with a box cutter held to her neck by 27-year-old Tony Murry. The fifth-grader ran upstairs and retrieved a handgun. Despite Murry using Gay to shield himself, enough of the attacker was exposed, and the youngster fired one shot, hitting Murry in the chest. As a newspaper detailed, "The fifth-grader may not have been just a lucky shot. This is a family that knows guns." St. Joseph County Prosecutor Chris Toth later stated, "The young man reasonably believed his [grand]mother and himself to be in danger of dying...He did what he had to do."

In discussing child access prevention laws, Wintemute noted: "States have passed laws imposing criminal penalties on adults whose negligence allows children to gain access to firearms with a resulting injury or death...At this time there is no good evidence that the laws are effective."^{lxx}

Lott and Whitley^{lxxi} analyzed the effects of safe storage laws from data spanning nearly 20 years. What they found was that not only was there "no support that safe storage laws reduce either juvenile accidental gun deaths or suicides," but such laws cost lives by making it more difficult to have a firearm ready for a sudden emergency. During the first 5 years after the passage of "safe-storage" laws, the group of 15 states that had adopted them experienced significant increases of murder, rape, robbery, and aggravated assault. As Lott and Whitley noted, "these storage requirements appear to impair people's ability to use guns defensively."

If the weapons effect hypothesis were valid, removing more guns from ready availability in those states where safe-storage laws are in force should have been accompanied by decreased levels of firearm-related violence. They were not.

VI. BLUNDERBUSS POLICIES

Berkowitz' claim that the trigger pulls the finger is unambiguous and helped set the groundwork for the justification of increasingly restrictive "blunderbuss" firearm laws designed to reduce civilian firearm availability. Those laws, premised on the weapons effect, have failed to work as promised toward reducing firearm-related violence in our society.

Even so, demands for ever harsher restrictions continue. For example, in an article published in *Pediatrics*,^{lxxii} Katherine Kaufer Christoffel, a pediatrician and leading firearm prohibitionist, expressed concern about firearm injuries in America's pediatric population. According to Christoffel, "most shootings are not committed by felons or mentally ill people, but are acts of passion that are committed using a handgun that is owned for home protection." Her solution to firearm-related injuries to children included but was not limited to: gun-owner liability, total firearm licensure and registration, ammunition modification to decrease lethality, and "banning [handgun] possession in locations where children live and visit." Christoffel suggested that pediatricians should become involved as "advocates in the political process...[for] reducing the accessibility of guns in the environments of children and adolescentsOur goal is to reduce the use of guns—and thereby, danger from guns—near and by children and adolescents....Every incremental step in the direction of reducing the availability of firearms in the environments of children and adolescents is a positive step toward reducing their risk of injury and mortality from firearms."

Since children can be found virtually anywhere, even in condominiums whose bylaws restrict permanent residence to adults, Christoffel's recommendations amount to a de facto ban on all guns.

American gun-owners have been subjected to a plethora of "blunderbuss" restrictive gun laws. Firearm licensing and gun-owner registration, especially with regard to handguns, have been used to effectively prohibit ownership in some urban jurisdictions. In addition, many laws have been enacted to ban entire classes of guns,^{lxxiii} such as "assault weapons" (self-loading firearms with a military or futuristic appearance)^{lxxiv}

and “junk-guns” (also referred to as “Saturday Night Specials”).^{lxxxv} Firearm rationing (i.e. “one-gun-a-month”) laws have been enacted in South Carolina, Virginia, and Maryland.

More recently, .50 caliber “sniper” rifles have become the target of a ban by U.S. Rep. Rod Blagojevich (D-Ill).^{lxxxvi} Blagojevich stated, “This is a weapon that should never have been allowed for civilian use in the first place.” Under his proposal, the sale of such rifles would be prohibited to civilians, and those who already own them would be required to undergo a criminal background check and have them registered with the Bureau of Alcohol, Tobacco and Firearms, under the same rules applicable to machine guns.

Suter,^{lxxxvii} identified the tactic of incrementally outlawing guns one group at a time: “Some guns are ‘too big’ (‘assault weapons’); some guns are ‘too small’ (handguns). Some ammunition penetrates ‘too much’ (armor piercing ammo); some ammunition penetrates ‘too little’ (‘hyperdestructive’ hollow point ammo). Some guns are ‘too inaccurate’ (‘Saturday Night Specials’); some guns are ‘too accurate’ (scoped hunting rifles or ‘sniper rifles’)....What the anti-self-defense lobby never tells us in their fairy tale is what guns and ammunition are ‘just right’—because, for these extremists, there is no gun or ammunition that is ‘just right.’”

Another means of attempting to reduce firearm availability has been to limit the number of retail and other outlets engaged in the lawful transfer and sale of firearms. Between the time the Brady Act was passed in 1993, and the end of October 1997, the number of Federal firearm licenses^{lxxxviii} dropped 287,000 to 79,224.^{lxxxix} One factor accounting for this decrease was that, under the Clinton administration, the procedure for applying for a new license, as well renewal of an existing license, became exceedingly complex and burdensome, discouraging both renewals and prospective licensees.^{lxxx}

At the same time, many municipalities sharply restricted or banned firearms dealer within their jurisdictions.^{lxxxi} As a U.S. Department of Justice report noted, “some communities have limited the number of Federal firearms licenses (FFL’s) that are allowed to sell firearms. Zoning and other municipal ordinances that restrict permissible gun sale locations (e.g., in residential and school zones) and impose conditions on gun sales are effective strategies used by many jurisdictions to reduce the degree to which communities are saturated with guns.”^{lxxxii}

The use of the weapons effect to buttress the philosophical justifications for firearm-prohibition (the ultimate goal) has also been resorted to on a global scale. Such efforts to eliminate the civilian possession of small arms have today become internationally coordinated.

For example, in “Small Arms Survey 2001,” the authors declared: “It is not only the availability of arms—it is the arms themselves that condition violenceThe more accessible the tools of violence, the more likely they are to be used.”^{lxxxiii} Regarding the genocide in Rwanda, ^{lxxxiv} the authors focused blame away from the inaction of the international community,^{lxxxv} and instead implicated the vast number of small arms and other weapons sold to the Rwandan government: “just before the killing began, peacekeepers estimated that 85 tons of weapons...[were] distributed throughout the country.”

A similar claim was asserted in a report by the International Committee of the Red Cross: “Arms transfers into Rwanda as tensions increased...are widely considered to have encouraged and facilitated” the genocide in that country.^{lxxxvi} The implication was that mobs of armed civilians were crazed by their proximity to mortars, rocket-propelled grenades, assault rifles, sub-machine guns, and millions of rounds of ammunition,^{lxxxvii} and commenced killing each other.^{lxxxviii}

The reality in Rwanda was that firearms and other weapons were not evenly available to all segments of the population. The victim segment was defenseless and weaponless, previously disarmed by laws enacted in 1964 and 1979. The firearms were purchased by the government and issued by the government only to the police, the army, and “trusted civilians.”^{lxxxix} There were relatively few weapons in the hands of the genocide victims. This disequilibrium significantly lowered the cost to the government of Rwanda and its henchmen for the commission of genocide. Had the victims been better armed^{xc}—had firearm availability been greater—the genocide might have been prevented, or at least the magnitude of the violence might have been moderated.

VII. CONCLUSION

Blaming “the gun” absolves one of personal responsibility, and denies the existence of free will—that man, regardless of external forces, can choose his actions. Increasingly, the weapons effect hypothesis has amounted to an excuse for murderers to eschew culpability. It is but one variation of the modern tendency to

manufacture excuses for criminals, following the same line of reasoning that we should not hold muggers morally accountable for their actions because they grew up in an environment of poverty.

Blaming “the gun”—as weapons effect proponents would have us do—is easy because of the obvious correlation between the one who was shot, and the weapon that was used. The idea is comforting to many because it promises a quick fix to the complex problems of society. But the underlying causes are swept under the carpet and solutions that truly hold the promise of mitigating the ills of society are ignored or discarded.

The weapons effect hypothesis is the fanciful creation of highly educated researchers, many of whom have an irrational fear or loathing of firearms. It is a perversion of science to declare that experiments using strange circumstances to manufacture findings of aggression are proof that the weapons effect hypothesis is valid.

We suggest a more relevant type of “weapons effect” experiment. Place a subject and a gun, loaded with blanks, in a realistic environment.^{xi} Insert all possible aggressive cues in that environment. Then measure the percentage of subjects who pick up the gun and point it at the confederate, and note how many of these actually fire the gun. Is this not the real-world outcome Berkowitz and LePage described? Our prediction is that the gun will not be picked up and pointed at the confederate as long as the subject is not made to feel that his personal safety is in jeopardy, or as long as he is provided a pathway for safe retreat.

It is an undeniable fact that aggression exists in humans, but many researchers make the mistake of assuming that the accessibility of aggressive thoughts is inherently bad. The assumption ignores the fact that aggressive behavior is sometimes warranted and desirable (e.g., self-defense against terrorists or other violent attackers). Berkowitz complained that our society takes “a lenient attitude toward what is sometimes called defensive aggression. It is quite permissible, even admirable, for a man to defend with vigor not only himself but his family, his home and his country, and not only his physical safety but his principles of honor, law and democracy.”^{xii} What would Berkowitz think about the act of “aggression” performed by Sue Gay’s 11-year-old grandson? What would he wish for were his own grandson about to be killed by a criminal? A “shock key?”

Researchers who say they are “measuring aggression,” and then perform a bait-and-switch to redefine what they measured as a “weapons effect,” are fooling themselves. Having aggressive thoughts does not translate into the lethal kind of “weapons effect” that Berkowitz and LePage hypothesized.

A new generation of weapons effect proponents would have us believe that ordinary American gun-owners are like Pavlov’s dogs learning to salivate upon hearing a bell: put them near a gun, and they will shoot themselves or some other innocent. As Leonard Berkowitz put it, “Gun control may not be too effective in protecting ordinary citizens against criminals or Presidents against assassins, but it may, nevertheless, save some ordinary citizens from other ordinary citizens like themselves.”^{xiii}

Such a profoundly pessimistic view of human nature presumes that most of us are incapable of controlling our actions. If we are to believe that simply seeing a firearm will cause us to think about murdering one another and make us more likely to commit the act, we must also concede that we are gravely lacking of free will—mere slaves to our environment—and that we can easily and completely be dominated by mind-control tactics like subliminal advertising and frenzied propaganda.

Doesn’t mankind deserve more credit?

NOTES

i. Lester Adelson, “The Gun and the Sanctity of Human Life; or The Bullet as Pathogen,” *The Pharos* (Summer 1980). The article was reprinted in *Archives of Surgery* 127 (June 1992): 659-64, accompanied by the editorial note: “The penetrating concepts embodied in this seminal contribution are as operative today as they were in 1980.”

ii. John Curran, “Officer Snaps, Kills Neighbors, Injures Boss,” *The Journal News* (New York), 11 April 2002.

iii. Owen Moritz, “Cop’s Shooting Spree Leaves 5 and Self Dead,” *New York Daily News*, 11 April 2002.

iv. Ikimulsia Sockwell-Mason and Todd Venezia, “Time Bomb with a Badge,” *New York Post*, 11 April 2002.

v. Leonard Berkowitz and Anthony LePage, “Weapons as Aggression-Eliciting Stimuli,” *Journal of Personality and Social Psychology* 7 (1967):202-07.

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- vi. Gary Kleck and David J. Bordua, "The Factual Foundation for Certain Key Assumptions of Gun Control," *Law and Policy Quarterly* 5 (1983):271-98, <www.saf.org/lawreviews/kleckandbordua.htm>
- vii. Don B. Kates and Daniel D. Polsby, "Long-Term Nonrelationship of Widespread and Increasing Firearm Availability in the United States," *Homicide Studies* 4 (May 2000):185-201, <www.donkates.com/don&dan.html> See also John P. May, "Taking Aim at Handgun Violence," *JAMA* 273 (1995): 1739-40: "Any of our patients, like ourselves, can have moments of being impulsive, careless, angry, or filled with despair. If a handgun is readily accessible, those moments are more likely to end in disaster." According to Jasjit Singh, "political dissent rapidly assumes violent shape because of easy availability of lethal small arms." "Illicit Trafficking in Small Arms: Some Issues and Aspects," *Curbing Illicit Trafficking in Small Arms and Sensitive Technologies: An Action-Oriented Agenda*, ed. Pericles Gasparini Alves and Daiana Belinda Cipollone (N.Y.: United Nations Institute for Disarmament Research, 1998), 13.
- viii. Gary Kleck and David J. Bordua, "The Factual Foundation for Certain Key Assumptions of Gun Control," *Law and Policy Quarterly* 5 (1983):271-98.
- ix. According to Ford, et al, "we would predict that if guns continue to proliferate in our society and thus become more familiar to a greater number of people, completed suicide rates will continue to rise simply because of the lethality of the instrument." Amasa B. Ford, Norman B. Rushforth, Nancy Rushforth, Charles S. Hirsch, and Lester Adelson, "Violent Death in a Metropolitan County: II. Changing Patterns in Suicides (1959-1974)," *American Journal of Public Health* 69 (1979):459-64. Rathjen and Montpetit claimed that "Guns are 15 times more lethal than knives, and much deadlier than fists." Heidi Rathjen & Charles Montpetit, *December 6: From the Montreal Massacre to Gun Control: The Inside Story* (Toronto: McClelland and Stewart, Inc., 1999), 59. Compare with Kleck, who, in discussing the relative lethality of guns vs. knives, stated that the available data supports a 4-to-1 ratio. Gary Kleck, *Point Blank: Guns and Violence in America* (N.Y.: Aldine de Gruyter, 1991), 164.
- x. Turner and Leyens credited Berkowitz and LePage (1967) with conducting "the original study that produced findings called the 'weapons effect'." Charles W. Turner and Jacques-Philippe Leyens, "The Weapons Effect Revisited: The Effects of Firearms on Aggressive Behavior," *Psychology and Social Policy*, ed. Peter Suedfeld and Philip E. Tetlock (N.Y.: Hemisphere Publishing Corporation, 1992), 201-22.
- xi. Leonard Berkowitz and Anthony LePage, "Weapons as Aggression-Eliciting Stimuli," *Journal of Personality and Social Psychology* 7 (1967):202-07.
- xii. Subjects were told that one shock signified a "very good" rating, and ten shocks a "very bad" rating.
- xiii. A brief questionnaire was administered to subjects both before they were administered shocks, and after they had delivered shocks to the confederate, in order to assess "mood changes." The authors concluded, "Analyses of variance of the responses to each of the mood scales following the receipt of the partner's evaluation indicate the prior-shock treatment succeeded in creating differences in anger arousal. The subjects getting seven shocks rated themselves as being significantly angrier than the subjects receiving only one shock."
- xiv. Leonard Berkowitz, "Impulse, Aggression and the Gun," *Psychology Today*, September 1968, 19-21.
- xv. Arthur L. Kellermann, "Response to Kleck," *Homicide Studies* 5 (2001):276-78.
- xvi. Dolf Zillmann, *Hostility and Aggression* (Hillsdale, N.J.: Lawrence Erlbaum Associates, 1979), 145-55.
- xvii. Hans Toch & Alan J. Lizotte, "Research and Policy: The Case of Gun Control," *Psychology and Social Policy*, ed. Peter Suedfeld and Philip E. Tetlock (N.Y.: Hemisphere Publishing Corporation, 1992), 223-49.
- xviii. Michael Carlson, Amy Marcus-Newhall, and Norman Miller, "Effects of Situational Cues: A Quantitative Review," *Journal of Personality and Social Psychology* 58 (April 1990):622-33.
- xix. Gary Kleck, *Point Blank: Guns and Violence in America* (N.Y.: Aldine de Gruyter, 1991), 158-62.
- xx. Hans Toch & Alan J. Lizotte, "Advocating Gun Control", *Psychology and Social Policy*, ed. Peter Suedfeld and Philip E. Tetlock (N.Y.: Hemisphere Publishing Corporation, 1992), 223-49.
- xxi. Dolf Zillmann, *Hostility and Aggression* (Hillsdale, N.J.: Lawrence Erlbaum Associates, 1979), 145-155.
- xxii. Berkowitz and LePage themselves acknowledged the element of suspicion on the part of subjects as a significant factor in the experiment, and mentioned it several times in the course of their article. For example, the experiment was run on 139 subjects, but 39 subjects were subsequently "discarded" for various reasons; for 21 of these, suspicion expressed by the subject was the basis for their disqualification.
- xxiii. Dolf Zillmann, *Hostility and Aggression* (Hillsdale, N.J.: Lawrence Erlbaum Associates, 1979), 150.
- xxiv. Desmond P. Ellis, Paul Weinir, and Louie Miller III, "Does the Trigger Pull the Finger? An Experimental Test of Weapons as Aggression-Eliciting Stimuli," *Sociometry*, 34 (1971):453-65.
- xxv. It seems to us an easy task to create more realistic scenarios where the presence of a gun would be a reasonable expectation, especially here in the U.S. where firearms are commonplace. For example, one might plan an experiment to be performed on a field trip in a wooded area or at a firearm range, and have "loaded" guns (loaded with blanks, only) easily available to the subject. We would, however, strongly recommend that a qualified firearm instructor be consulted in designing such an experiment in order to ensure both the safety of all participants, and realism of the experimental conditions.

xxvi. Centers for Disease Control and Prevention, "Firearm-Associated Homicides among Family Members, Relatives, or Friends--Ohio," *Epidemiologic Notes and Reports* 38 (April 1989):253-56, <www.cdc.gov/mmwr/preview/mmwrhtml/00001376.htm>

xxvii. James D. Wright and Peter Rossi, *Armed and Considered Dangerous: A Survey of Felons and their Firearms* (N.Y.: Aldine de Gruyter, 1986), 92-93.

xxviii. Craig A. Anderson, Arlin J. Benjamin, Jr., and Bruce D. Bartholow, "Does the Gun Pull the Trigger? Automatic Priming Effects of Weapon Pictures and Weapon Names," *Psychological Science* 9 (July 1998), 308-14.

xxix. The authors noted that "The standard explanation of this weapons effect on aggressive behavior involves priming: identification of a weapon is believed to automatically increase the accessibility of aggression-related thoughts."

xxx. Charles W. Turner, John F. Layton, and Lynn Stanley Simons, "Naturalistic Studies of Aggressive Behavior: Aggressive Stimuli, Victim Visibility, and Horn Honking," *Journal of Personality and Social Psychology* 31 (1975):1098-1107.

xxxi. Figures given by authors represent mean subject reaction times.

xxxii. There was relatively little ambiguity in the identification of the weapon primes; however, this was not true for the plant primes: one of the "fruit" drawings could easily be interpreted as a slice of meat, or even an embryo; one of the "tree" drawings could be mistaken for the mushroom cloud of a nuclear explosion.

xxxiii. In both experiments, subsequent trials commenced following a delay of 0.5 seconds. Sessions lasted approximately 30 minutes for the first experiment, and 45-60 minutes for the second.

xxxiv. Both the list of aggressive and nonaggressive words contained words which were ambiguous and had several possible common alternative meanings. Consider the following examples, noting that, in each instance, both aggressive and nonaggressive interpretations can apply to each word. One can "strike" an agreement, or "strike" a person, or go on "strike" at one's place of employment. One can "punch" an antagonist, or drink a glass of "punch." One can "wound" an assailant, or a clock can be "wound"; in a case such as this, subject confusion about how to correctly pronounce the word prior to reciting it aloud could contaminate the response. When the goal of these experiments was to assess timed responses measured in thousandths of a second, and just a few thousandths of a second is considered "statistically significant", the confusion presented by word ambiguities may be important, and there is no indication that the researchers took this factor into account.

xxxv. *Supra* note 1.

xxxvi. Edgar A Suter, William C. Waters, George B. Murray, et al, "Violence in America: Effective Solutions," *Journal of the Medical Association of Georgia* 84 (June 1995):253-63.

xxxvii. As Kleck pointed out, there are two methods which can be used to determine the size of the civilian gun stock. One is based on manufacturing figures and adjusted for imported and exported guns. The other is based on gun-owner surveys; one of the major flaws in estimation by this method is respondent denial of firearm ownership, both intentional and unintentional. The figures cited here were obtained using the former method. Gary Kleck, *Point Blank: Guns and Violence in America* (N.Y.: Aldine de Gruyter, 1991), 63-103.

xxxviii. Kates and Polsby cite Kleck as noting: "About half of the time gun stock increases have been accompanied by violence decreases, and about half of the time [they have been] accompanied by violence increases, just what one would expect if gun levels had no impact on violence rates." Don B. Kates and Daniel D. Polsby, "Long-Term Nonrelationship of Widespread and Increasing Firearm Availability in the United States," *Homicide Studies* 4 (May 2000):185-201, <www.donkates.com/don&dan.html>

xxxix. According to the U.S. Department of Justice, in 1998, the violent crime rate had fallen to its lowest point since 1973. Gary Fields, "Study Shows Decline in Violent Crime," *USA Today*, 19 July 1999. See also Alfred Blumstein and Richard Rosenfeld, "Assessing the Recent Ups and Downs in U.S. Homicide Rates," *Crime's Decline—Why?*, National Institute of Justice Journal (October 1998),10. See also Fox Butterfield, "U.S. Crime Figures were Stable in 2000 After 8-Year Drop," *New York Times*, 31 May 2001.

xl. M.A.J. McKenna, "Gun Deaths Decline in United States," *Detroit Free Press*, 19 November 1999.

As Kates and Polsby have noted, "Over the past three decades, particularly in the mid-1980s, 30 or more states have enacted laws allowing any trained, law abiding adult to obtain on application a license to carry a concealed firearm [this includes the ten states that eased restrictions on the concealed-carry of handguns between 1987 and 1990, and several others which enacted similar laws afterwards] . . . Since 1990 one to two million residents of these 31 states have been issued licenses to carry concealed handguns." Don B. Kates and Daniel D. Polsby, "Long-Term Nonrelationship of Widespread and Increasing Firearm Availability in the United States," *Homicide Studies* 4 (May 2000):185-201, <www.donkates.com/don&dan.html> Moreover, between 1973 and 1994, the percentage of the total estimated civilian gun stock comprised of handguns rose from about 29% to about 36%. Gary Kleck, *Point Blank: Guns and Violence in America* (N.Y.: Aldine de Gruyter, 1991), 49-50. These factors would have served to make handguns more readily accessible for immediate use.

xli. Gary Kleck and Marc Gertz, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun," *Journal of Criminal Law and Criminology* 86 (1995):150-87, <www.saf.org/LawReviews/KleckAndGertz1.htm>.

xlii. Gary Kleck, *Targeting Guns: Firearms and their Control*, (N.Y.: Aldine de Gruyter, 1997), 162.

xliii. Alan J. Lizotte and James Tesoriero, "Gun Ownership and Delinquency", *Urban Delinquency and Substance Abuse: Technical Report*, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (November 1993, revised): Ch. 15. See also "Urban Delinquency and substance Abuse: Initial Findings Report," U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, July 1993.

xliv. Eighty-four percent of the original study sample was tracked to about 22 years of age, demonstrating a high retention rate. Alan J. Lizotte and Marvin D. Krohn, "Sources of Gun Acquisition among Young Urban Males," delivered at the November 1999 meeting of the American Society of Criminology.

xlv. The researchers noted that girls rarely own guns and they therefore excluded them from this part of the study's analysis.

xlvi. By the time the study group reached 11th and 12th grade, the number of boys who owned legal guns had risen to about 40, and the number of boys who owned illegal guns had risen to about 60. By this time, therefore, there were approximately 100 gun-owning boys in the study population out of about 660 boys, from a total retained sample of about 900 (males and females, combined). It would be worthwhile to repeat such a study on a larger sample size, especially in an area where restrictions on juvenile possession of firearms are less severe than in New York.

xlvii. According to Westen:

Psychologists have offered two conflicting views of adolescent social and personality development. One approach emphasizes that as adolescents grow less dependent upon their parents and try out new values and roles, they often become rebellious and moody, shifting from compliance one moment to defiance the next. According to this **conflict model**, put forth at the turn of the century, and later elaborated by psychodynamic theorists, *conflict and crisis are normal in adolescence*. Conflict theorists argue that adolescents need to go through a period of crisis to separate themselves psychologically from their parents and carve out their own identity. Beeper studies (which page or 'beep' participants at random intervals over the course of a day to measure what they are thinking or feeling at the moment; Chapter 9) show that adolescents do, in fact, experience a wider range of moods over a shorter period of time than adults. Longitudinal studies find decreases in hostility and negative emotionality and increases in diligence, self-control, and congeniality as teenagers move into early adulthood. Other theorists argue, however, that the stormy, moody, conflict-ridden adolescent is the exception rather than the rule. According to the **continuity model**, *adolescence is not a turbulent period but is essentially continuous with childhood and adulthood* (all emphases in original).

Drew Westen, *Psychology: Brain, Behavior, and Culture*, (N.Y.: John Wiley & Sons, Inc., 2002), 509-10.

Santrock noted that "Early adolescence is a time when conflict with parents escalates beyond childhood levels," John W. Santrock, *Life-Span Development*, 6th ed. (Madison, WI: Brown & Benchmark Publishers, 1997), 387-88.

Wright and Rossi noted that, "In the best of circumstances, adolescence can be a much-troubled period in a young man's life. . . ." James D. Wright and Peter Rossi, *Armed and Considered Dangerous: A Survey of Felons and their Firearms* (N.Y.: Aldine de Gruyter, 1986), 122.

xlviii. Sheley and Wright interviewed male students in 10 inner-city public schools. In asking them how they would go about obtaining a gun if they wanted one, "Most felt there were numerous ways but that family, friends, and street sources were the main sources;" 53 percent of the students would "borrow" a gun from a family member or friend," and 37 percent of the students would "get one off street." Joseph F. Sheley and James D. Wright, "Gun Acquisition and Possession in Selected Juvenile Samples," Research in Brief, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention (December 1993).

xlix. Alan J. Lizotte and Marvin D. Krohn, "Sources of Gun Acquisition among Young Urban Males," delivered at the November 1999 meeting of the American Society of Criminology.

¹. See "Gun Accidents Down," news release from the National Shooting Sports Foundation (Newtown, CT), 6 Feb. 2000. "The National Safety Council's most recent report on accident injuries indicates that in 1998 firearms-related fatalities reached an all-time low of 900—the fewest accidents since record keeping began in 1903."

ⁱⁱ. Lott noted that "nowhere were guns more common than at schools. Until 1969, virtually every public high school in New York City had a shooting club. High-school students carried their guns to school on the subways in the morning, turned them over to their homeroom teacher or the gym coach and retrieved them after school for target practice. The federal government even gave students rifles and paid for their ammunition. Students regularly competed in city-wide shooting contests, with the winners being awarded university scholarships." John R. Lott, "More Gun Controls? They Haven't Worked in the Past," *Wall Street Journal*, 17 June 1999.

Acceleration of this decline was likely facilitated by passage of the 1990 federal legislation banning guns within 1,000 feet of a school, signed into law by then-President George Bush. Although ruled unconstitutional by the Supreme Court on April 25, 1995, the legislation was reworked, resurrected by Congress, and then signed back into law by President Clinton that same year. The legislation had the practical effect of posting signs on school property containing the message, "Only criminals are allowed to carry guns here; all others are potential victims." As Lott and Landes noted: "While the recent rash of public school shootings during the 1997-98 school year took place after the period of our study, these incidents raise questions about the unintentional consequences of laws. The five public school shootings took place after a 1995 federal law banned guns (including permitted concealed handguns) within a thousand feet of a school. The possibility exists that attempts to outlaw guns from schools, no matter how well meaning, may have produced perverse effects. It is interesting to note that during the 1977 to 1995 period, 15 shootings took place in schools in states without right-to-carry laws and only one took place in a state with this type of law. There were 19 deaths and 97 injuries in states without the law, while there was one death and two injuries in states with the law." John R. Lott, Jr. and William M. Landes, *Multiple Victim Public Shootings, Bombings, and Right-to-Carry Concealed Handgun Laws: Contrasting Private and Public Law Enforcement*, University of Chicago Law School, John M. Olin Law & Economics Working Paper No. 73 (2nd Series, Apr 1999), 5.

ⁱⁱⁱ. See Linda F. Burghardt, "Chess, Sure. But Rifles? In Great Neck? Great Neck Skirmish: Scholastic Rifle Team," *New York Times*, 28 November 1999. Great Neck, New York, is an upscale politically-liberal suburban community just outside New York City on Long

Island. It was solely through the efforts of Howard Last (a civil engineer and a certified firearms instructor) and his 14-year-old daughter Lisa that the Great Neck South High School rifle team came into being. However, Last and his daughter faced stiff opposition from people like Susan Posen who headed a campaign to eliminate riflery in the Great Neck schools. According to Posen, "A rifle is an instrument for killing. Shooting is not a sport. When I read that my community was supporting a rifle team, I was incensed. In light of the horrifying gun violence in so many schools, how can we possibly justify helping our children become adept at using guns. . . . It is my goal to totally ban riflery participation in this town." Last disagreed: "The kids who shoot are nearly always honor students. It's a very, very safe sport. Every year 50,000 people are killed in car accidents, yet we have driver education in the school. Why not firearms training and a varsity riflery team." In a private E-Mail communication (27 May 2002), Last stated, "Besides Lisa, my other reason for forming the team was for the kids. The kids are the future. Almost all the kids were honor students and/or AP scholars." In the end, however, Posen got her wish and the team was disbanded.

lii. Gary Kleck, "Policy Lessons from Recent Gun Control Research," *Law and Contemporary Problems* 49 (1986), <www.saf.org/lawreviews/lawprobkleck1.htm>

Compare with the position taken by the American College of Physicians: "In the absence of a complete ban on the sale and possession of firearms, steps must be taken to restrict the[ir] availability..." "Firearm Injury Prevention," Position Paper of the American College of Physicians, *Annals of Internal Medicine* 128 (1998):236-41, <www.acponline.org/journals/annals/01feb98/ppguns.htm>

liv. The program was not really a "buyback" because the government had not originally owned the guns.

lv. Buyback America Campaign Launched in 84 Communities. H.U.D. Press Release Apr 18, 2000, <www.hud.gov/library/bookshelf18/pressrel/pr00-80.html>

lvi. Michael P. Romero, Garen J. Wintemute, and Jon S. Vernick, "Characteristics of a Gun Exchange Program, and an Assessment of Potential Benefits," *Injury Prevention* 4 (1998):206-10.

lvii. Robin Yurk, Linda Jaramillo, Linda L. Erwin, and Neal J. Rendleman, "Educating the Community about Violence Through a Gun Turn-In Program," *Journal of Community Health* 26 (October 2001):331-44.

lviii. The educational aspect could more aptly be described as anti-gun propaganda intended to frighten the public about firearms. The success of such campaigns appears to lie, not in their enhancement of community safety, but in their heightening of community fear of guns. For example, see Matthew Miller, Deborah Azrael, and David Hemenway, "Community Firearms, Community Fear," *Epidemiology* 11 (November 2000):709-14. "Individuals might feel safer as others acquire guns if they believe these guns would deter unlawful behavior or provide neighbors with weapons with which they could aid potential victims. On the other hand, individuals might feel less safe if they believe that these guns would more readily be available to those who have difficulty controlling hostile impulses....our findings suggest most Americans are not impervious to the psychological effects of guns in their community, and that, by a margin of more than 3 to 1, more guns make others in the community feel less safe rather than safer." See also David Hemenway, Sara J. Solznick, and Deborah R. Azrael, "Firearms and Community Feelings of Safety," *Journal of Criminal Law and Criminology* 86 (1995):121-32: "This Article provides suggestive evidence that possession of firearms imposes, at minimum, psychic costs on most other members of the community...Eighty-five percent of non-gun-owners report they would feel less safe if more people in their community acquired guns; only 8% would feel more safe. By a ten-to-one margin, they prefer others not to acquire firearms."

lix. New York City Mayor Michael Bloomberg intended to send the same message to residents of his city in the spring of 2002. Facing a 22.3 percent increase in "shooting incidents" between January 1, 2002 and May 5, 2002, compared to same time period the year before, New York City's new administration implemented a "Cash for Guns" program. In a May 7, 2002 press release, Mayor Bloomberg and Police Commissioner Raymond Kelly jointly announced that the NYPD would pay "\$100 for the [anonymous] surrender of every handgun, sawed-off shotgun and assault weapon" as part of the department's "latest initiative to prevent street violence." A similar 1999 program in New York City yielded a total of 1,900 guns in a 30-day period. Bloomberg and Kelly declared that "This program is . . . another step to reducing violence", that anyone who participated would "make your home and your city a safer place", and that "we expect many people would prefer to have cash in their pockets than a deadly weapon in their homes." "*New Anti-gun Initiative Pays Cash for Lethal Weapons*," Press Release, Office of the Mayor, May 7, 2002 PR-108-02. See also William K. Rashbaum, "\$100 Offered for Any Gun Turned In. No Questions Asked," *New York Times*, 8 May 2002.

lx. See Peter Slavin, "Buying Back Safer Streets?," *Washington Post*, 19 May 2000.

lxi. David R. Meddings and Stephanie M. O'Connor, "Circumstances Around Weapon Injury in Cambodia after Departure of a Peacekeeping Force: Prospective Cohort Study," *British Medical Journal* 319 (August 14, 1999):412-15, <bmj.com/cgi/content/full/319/7207/412>

lxii. See also Jianwei Wang, "Aborted Disarmament," *Managing Arms in Peace Processes: Cambodia*, U.N. Disarmament and Conflict Resolution Project (N.Y. and Geneva: 1996), 32-81.

lxiii. "Durbin Calls for Gun-Storage Law," News Summaries, JoinTogether Online, 28 April 1998, <www.jointogether.org/gv/news/summaries/reader/0,2061,26101,00.html>

lxiv. While the claim is often made that every day, 15 (or some similar figure) "American children are killed with guns," this statistic is true only if one counts as "children" 19-year-old drug-dealers shot by rivals, and many other criminal older male teenagers. Under this definition of "children", Durbin was technically accurate.

lxv. "Ill. Residents Must Store Guns Under Lock and Key," News Summaries, Join Together Online, 10 June 1999, <www.jointogether.org/gv/news/summaries/reader/0,2061,259069,00.html>

lxvi. Andrew J. McClurg, "Child Access Prevention Laws: A Common Sense Approach to Gun Control," *St. Louis University Public Law Review* 18 (1999):47-97.

lxvii. Kimi Yoshino, "No Easy Answers: Gun Advocates say Fear of Liability Keeps Parents from Teaching Survival Skills," *Fresno Bee*, 26 August 2000.

lxviii. Violation of California's firearm storage law is punishable by imprisonment in the state prison for up to 3 years, by a fine up to a maximum of \$10,000, or both fine and imprisonment. See Part 4, Title 2, California Penal Code, Sec. 12035(d)(1, 2).

lxix. Gwen O'Brien, "11-Year-Old Shoots, Kills Assailant Threatening his Grandmother," *South Bend Tribune*, 7 February 2002.

lxx. Garen Wintemute, "Guns and Gun Violence," *The Crime Drop in America*, ed. Alfred Blumstein and Joel Wallman (Cambridge, Mass.: Cambridge University Press, 2000), 86.

lxxi. John R. Lott and John E. Whitley, "Safe Storage Gun Laws: Accidental Deaths, Suicides, and Crime," *Journal of Law and Economics* (forthcoming).

lxxii. Katherine Kaufer Christoffel, "Toward Reducing Pediatric Injuries from Firearms: Charting a Legislative and Regulatory Course," *Pediatrics* 88 (1991):294-305.

lxxiii. In 1988, a year before enacting the first statewide "assault weapons" ban, the California Attorney General's office had already concluded that a consistent definition of "assault weapon" was impossible. See Edgar A. Suter, "'Assault Weapons' Revisited—An Analysis of the AMA Report," *Journal of the Medical Association of Georgia* 83 (1994): 281-89.

lxxiv. This is exemplified by New York State Gov. George Pataki's "5-Point" gun-control package, signed into law on August 9, 2000. In a press release, Pataki outlined the measures included in the sweeping legislation he lobbied for and shepherded through the state legislature. For example, one of the provisions provided for criminal sanctions for the possession and sale of "assault weapons" and large capacity ammunition feeding devices in New York State. Since 1994, federal law has restricted the possession of assault weapons and large capacity ammunition clips. This measure mirrors the federal provisions and definitions of "assault weapon" and "large capacity ammunition feeding device." See generally Jeffrey A. Roth and Christopher S. Koper, *Impacts of the 1994 Assault Weapons Ban: 1994-96*, Research in Brief, National Institute of Justice, U.S. Department of Justice (March 1999). As Roth and Koper noted, "The ban has failed to reduce the average number of victims per gun murder incident or multiple gunshot wound victims....The public safety benefits of the 1994 ban have not yet been demonstrated."

Another provision of the Pataki plan provided for an increase in the age requirement for obtaining a New York State handgun license, from 18 years of age to 21. Pataki justified the increase by noting: "Each year since 1988, more than 80 percent of homicide victims 15 to 19 years of age were killed with a handgun, according to the CDC." Compare this with Sen. Durbin's statement, *supra* note 64. The statistic cited by Pataki includes, as "children" in the 15-19 year age group, drug dealers and gang members.

Additionally, the new law also required a firearms retailer to: include a child safety locking device with all purchases, post notices regarding safe storage of guns in their place of business, and include gun safety information with the purchase of any gun.

lxxv. Maryland enacted the first statewide ban on "Saturday Night Specials" in 1988, by establishing a system for review of handguns. A nine-member Handgun Roster Board was charged with listing a roster of "permitted handguns." According to the Maryland statute, "The Board shall consider the following characteristics of a handgun in determining whether any handgun should be placed on the handgun roster: (i) concealability; (ii) ballistic accuracy; (iii) weight; (iv) quality of materials; (v) quality of manufacture; (vi) reliability as to safety; (vii) caliber; (viii) detectability by the standard security equipment . . . ; and (ix) utility for legitimate sporting activities, self-protection or law enforcement." Monica Fennell, "Missing the Mark in Maryland: How Poor Drafting and Implementation Vitiating a Model State Gun Control Law," *Hamline Journal of Public Law and Policy*, 13 (1992):37-71, <www.saf.org/LawReviews/Fennell1.htm>

After the West Hollywood, California, city council voted to implement its own "Saturday Night Special" ban in January 1996, San Diego Police Department forensic scientist Eugene Wolberg noted of that city's ordinance: "Unknown to the authors of the SNS law, the definitions used actually describe a much larger list than was envisioned by the ordinance's drafters. The guns included are most of today's modern firearms that use plastics, nylon polymers, zinc and aluminum for their construction materialsThe real incidence of use [of these guns in crime] is somewhere between 10 and 15 percent depending on the year, and these percentages are steadily declining, mostly due to economic factors." Eugene J. Wohlberg, "'Saturday Night Special' Myth," *San Diego Union-Tribune*, 22 June 1997.

lxxvi. Tom McCann, "Sniper Rifle Ban Urged Again: Blagojevich Says They're Terrorists' 'Weapon of Choice,'" *Chicago Tribune*, 22 October 2001. Blagojevich has attempted to enact such a law since 1999. Capitalizing on the political environment created by the September 11 attacks, Blagojevich labeled the guns "the terrorist weapon of choice," and declared: "In response to these terrorist tragedies we have to get them off the market."

However, as Kopel and Wheeler noted:

"Gun banners are now rushing to demonize the latest politically incorrect sporting gun—the .50 caliber target rifle. The Washington, D.C.-based Violence Policy Center (VPC) now equates .50-caliber hobbyists with gunrunners for the Taliban....[Blagojevich and] California Sen. Dianne Feinstein . . . have sponsored the 'Military Sniper Weapon Regulation Act' and have denounced .50-caliber target shooters as 'terrorists,' doomsday cultists, and criminals' (in the words of Sen.

Feinstein)....Mary Blek, President of the 'Million' Mom March, asserts that the Founding Fathers would have had no use for a .50-caliber rifle (Nov. 28, 2001, McKendree College debate). Actually, the common guns of the early American republic were larger than .50 caliber. The Queen Anne Colonial Musket (manufactured around 1670-1700) was .812. That gun was supplanted by various versions of the English Brown Bess musket, which was .75 caliber. America's French allies supplied the Patriots with the .70 Charleville Musket. The Dutch muskets bought by the Americans were .65 caliber....In other words, a great many of the guns which were most commonly owned and known in early America were at least .50 caliber [emphasis in original]....So the very same guns that Sen. Feinstein lauded in her 'Recreational Firearm Use Protection Act,' in 1994, are now said to be 'clearly distinguishable from rifles intended for sporting and hunting use.' One suspects that firearms stay on her personal list of 'good' guns only so long as there is no political opportunity to urge their prohibition."

Dave Kopel and Timothy Wheeler, "Guns and (Character) Assassination," *National Review Online*, 21 December 2001, <www.nationalreview.com/kopel/kopel122101.shtml>

lxxvii. Edgar A. Suter, "Goldilocks Gun Control," *Gun Week*, 10 January 1997.

lxxviii. The Gun Control Act of 1968 eliminated mail-order firearm sales, and required that "No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license [Federal Firearms License, or FFL] to do so. . . ." Title I of the Gun Control Act of 1968, Public Law 99-308, Sec. 923(a).

lxxix. Joseph P. Tartaro, "The 200,000 Missing Gun Salesmen," *Gun Week*, 1 February 1998. Tartaro noted that the 287,000 figure for FFLs represented not just retailers, but included manufacturers, importers, distributors and gunsmiths.

lxxx. Treasury undersecretary for enforcement, Raymond Kelly, stated that the dramatic decrease in FFLs was the result of Clinton Administration directives mandating stricter licensing requirements (including compliance with local zoning regulations) and higher application fees. The fee for a new (3-year) license rose from \$30 to \$200; the fee for renewals rose from \$30 to \$90. "Number of Federally-Licensed Gun Dealers Drops to Record Low," *Gun Week*, 1 March 1997.

lxxxii. Restricting the sale of firearms has become increasingly fashionable. In October 1999, Massachusetts Attorney General Thomas F. Reilly ordered local chiefs of police to begin enforcing a provision of the state's new law and suspend the state licenses of home-based firearm dealers. According to the new provision, gun dealers must "maintain a place of business which is not a residence or dwelling." At the time the provision went into force, there were an estimated 1,000 licensed gun dealers in the state; 75% of these were believed to be operating from their homes. Robert M. Hausman, "Massachusetts Shutting Down 75% of State's Gun Retailers," *Gun Week*, 20 December 1999. In accordance with Massachusetts law, a license is required "to sell, rent or lease firearms, rifles, shotguns or machine guns, or to be in business as a gunsmith. Every license shall specify the street and number of the building where the business is to be carried on, and the license shall not protect a licensee who carries on his business in any other place." Mass. Gen. L., Part I, Title XX, Chapter 140, Section 122.

A 1994 Cook County, Illinois, ordinance made it illegal for a gun store to operate within a quarter mile of a park or school. Shore Galleries, a gun store which also sells police equipment, was exempted at the time the ordinance was passed. When the management decided to move to larger quarters just six blocks down the street, the Lincolnwood village zoning board gave its unanimous approval. However, the village council responded to pressure from protesters who included the former head of the Illinois State Police, and rejected the move. Commenting on the situation, Illinois State Rep. Janice D. Schakowski stated "We've got to keep this neighborhood safe for our children." Les Klein, an area resident and father of three children stated: "Having a gun store next to a park where kids play basketball and baseball isn't the message we should send to our children." His wife, a member of Citizens for Safer Lincolnwood, added, "There needs to be a buffer zone here where kids are protected." Reportedly, 85% of the store's customers are police officers. "Suburban Chicago Protesters Prevent Gun Shop's Move," *Gun Week*, 1 August 1997.

lxxxiii. *Promising Strategies To Reduce Gun Violence*, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, February 1999, 87.

lxxxiii. *Small Arms Survey 2001: Profiling the Problem*, Graduate Institute of International Studies, Geneva. (United Kingdom, Oxford University Press, 2001), 204-207.

lxxxiv. The genocide in Rwanda, a country approximately the size of the state of Maryland, began on April 7, 1994, and lasted until July 19, 1994. While it was not the largest genocide perpetrated during the 20th century, it is "perhaps the most concentratedEven the Nazis 'production line' murder methods could not sustain Rwanda's average daily rate of about 8,000 murders per day." Jay Simkin, Aaron Zelman, & Alan M. Rice, *Rwanda's Genocide 1994: Supplement to Lethal Laws* (Milwaukee: JPFO Press, 1997). As Prunier noted, it has been conservatively estimated that, within a period of 3 months, 800,000 civilians were killed in Rwanda. Gérard Prunier, *The Rwanda Crisis: History of a Genocide* (N.Y.: Columbia University Press, 1995), 265.

lxxxv. "Rwanda's tragedy was the world's tragedy. All of us who cared about Rwanda, all of us who witnessed its suffering, fervently wish that we could have prevented the genocide....Now we know that what we did was not nearly enough....in their greatest hour of need, the world failed the people of Rwanda." Secretary-General Kofi Annan's address to the Parliament of Rwanda, in Kigali, May 7, 1998. U.N. Press Release SG/SM/6552, AFR/56, 06 May 1998, <www.un.org/News/Press/docs/1998/19980506.SGSM6552.html>

lxxxvi. *Arms Availability and the Situation of Civilians in Armed Conflicts*, A Study presented by the International Committee of the Red Cross (1 June 1999), <www.icrc.org/Web/eng/siteeng0.nsf/iwplList74/2C8CDB68E2366CE8C1256B66005D7A56>

^{lxxxvii}. *Small Arms Survey 2001: Profiling the Problem*, Graduate Institute of International Studies, Geneva. (United Kingdom, Oxford University Press, 2001), 207.

^{lxxxviii}. If, indeed, firearms and other weapons engendered genocide, with about one firearm/person in the U.S., and numerous tanks, bazookas, mortars, flame-throwers, rockets, and nuclear devices, one might have reason to conclude that genocide in the U.S. is imminent.

^{lxxxix}. Jay Simkin, Aaron Zelman, & Alan M. Rice, *Rwanda's Genocide 1994: Supplement to Lethal Laws* (Milwaukee: JPFO Press, 1997). The authors further noted: "In pre-genocide Rwanda, every adult was legally required to have a 'national identity' card, which stated the bearer's ethnicity. These 'national identity' cards became death warrants for tens of thousands of victims."

^{xc}. The cost to the genocide perpetrators would have been significantly raised if effective resistance were offered by the victims, i.e. through their use of firearms.

^{xci}. See *supra* note 25.

^{xcii}. Leonard Berkowitz, "Impulse, Aggression and the Gun," *Psychology Today*, September 1968, 20.

^{xciii}. Leonard Berkowitz, "How Guns Control Us," *Psychology Today* (June 1981):11-12.

NOTES

^{xciii}. Lester Adelson, "The Gun and the Sanctity of Human Life; or The Bullet as Pathogen," *The Pharos* (Summer 1980). The article was reprinted in *Archives of Surgery* 127 (June 1992): 659-64, accompanied by the editorial note: "The penetrating concepts embodied in this seminal contribution are as operative today as they were in 1980."

^{xciii}. John Curran, "Officer Snaps, Kills Neighbors, Injures Boss," *The Journal News* (New York), 11 April 2002.

^{xciii}. Owen Moritz, "Cop's Shooting Spree Leaves 5 and Self Dead," *New York Daily News*, 11 April 2002.

^{xciii}. Ikimulsia Sockwell-Mason and Todd Venezia, "Time Bomb with a Badge," *New York Post*, 11 April 2002.

^{xciii}. Leonard Berkowitz and Anthony LePage, "Weapons as Aggression-Eliciting Stimuli," *Journal of Personality and Social Psychology* 7 (1967):202-07.

^{xciii}. Gary Kleck and David J. Bordua, "The Factual Foundation for Certain Key Assumptions of Gun Control," *Law and Policy Quarterly* 5 (1983):271-98, <www.saf.org/lawreviews/kleckandbordua.htm>

^{xciii}. Don B. Kates and Daniel D. Polsby, "Long-Term Nonrelationship of Widespread and Increasing Firearm Availability in the United States," *Homicide Studies* 4 (May 2000):185-201, <www.donkates.com/don&dan.html> See also John P. May, "Taking Aim at Handgun Violence," *JAMA* 273 (1995): 1739-40: "Any of our patients, like ourselves, can have moments of being impulsive, careless, angry, or filled with despair. If a handgun is readily accessible, those moments are more likely to end in disaster." According to Jasjit Singh, "political dissent rapidly assumes violent shape because of easy availability of lethal small arms." "Illicit Trafficking in Small Arms: Some Issues and Aspects," *Curbing Illicit Trafficking in Small Arms and Sensitive Technologies: An Action-Oriented Agenda*, ed. Pericles Gasparini Alves and Daiana Belinda Cipollone (N.Y.: United Nations Institute for Disarmament Research, 1998), 13.

^{xciii}. Gary Kleck and David J. Bordua, "The Factual Foundation for Certain Key Assumptions of Gun Control," *Law and Policy Quarterly* 5 (1983):271-98.

^{xciii}. According to Ford, et al, "we would predict that if guns continue to proliferate in our society and thus become more familiar to a greater number of people, completed suicide rates will continue to rise simply because of the lethality of the instrument." Amasa B. Ford, Norman B. Rushforth, Nancy Rushforth, Charles S. Hirsch, and Lester Adelson, "Violent Death in a Metropolitan County: II. Changing Patterns in Suicides (1959-1974)," *American Journal of Public Health* 69 (1979):459-64. Rathjen and Montpetit claimed that "Guns are 15 times more lethal than knives, and much deadlier than fists." Heidi Rathjen & Charles Montpetit, *December 6: From the Montreal Massacre to Gun Control: The Inside Story* (Toronto: McClelland and Stewart, Inc., 1999), 59. Compare with Kleck, who, in discussing the relative lethality of guns vs. knives, stated that the available data supports a 4-to-1 ratio. Gary Kleck, *Point Blank: Guns and Violence in America* (N.Y.: Aldine de Gruyter, 1991), 164.

^{xciii}. Turner and Leyens credited Berkowitz and LePage (1967) with conducting "the original study that produced findings called the 'weapons effect'." Charles W. Turner and Jacques-Philippe Leyens, "The Weapons Effect Revisited: The Effects of Firearms on Aggressive Behavior," *Psychology and Social Policy*, ed. Peter Suedfeld and Philip E. Tetlock (N.Y.: Hemisphere Publishing Corporation, 1992), 201-22.

^{xciii}. Leonard Berkowitz and Anthony LePage, "Weapons as Aggression-Eliciting Stimuli," *Journal of Personality and Social Psychology* 7 (1967):202-07.

^{xciii}. Subjects were told that one shock signified a "very good" rating, and ten shocks a "very bad" rating.

^{xciii}. A brief questionnaire was administered to subjects both before they were administered shocks, and after they had delivered shocks to the confederate, in order to assess "mood changes." The authors concluded, "Analyses of variance of the responses to each of the mood scales following the receipt of the partner's evaluation indicate the prior-shock treatment succeeded in creating differences in anger arousal. The subjects getting seven shocks rated themselves as being significantly angrier than the subjects receiving only one shock."

^{xciii}. Leonard Berkowitz, "Impulse, Aggression and the Gun," *Psychology Today*, September 1968, 19-21.

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- ^{xciii}. Arthur L. Kellermann, "Response to Kleck," *Homicide Studies* 5 (2001):276-78.
- ^{xciii}. Dolf Zillmann, *Hostility and Aggression* (Hillsdale, N.J.: Lawrence Erlbaum Associates, 1979), 145-55.
- ^{xciii}. Hans Toch & Alan J. Lizotte, "Research and Policy: The Case of Gun Control," *Psychology and Social Policy*, ed. Peter Suedfeld and Philip E. Tetlock (N.Y.: Hemisphere Publishing Corporation, 1992), 223-49.
- ^{xciii}. Michael Carlson, Amy Marcus-Newhall, and Norman Miller, "Effects of Situational Cues: A Quantitative Review," *Journal of Personality and Social Psychology* 58 (April 1990):622-33.
- ^{xciii}. Gary Kleck, *Point Blank: Guns and Violence in America* (N.Y.: Aldine de Gruyter, 1991), 158-62.
- ^{xciii}. Hans Toch & Alan J. Lizotte, "Advocating Gun Control," *Psychology and Social Policy*, ed. Peter Suedfeld and Philip E. Tetlock (N.Y.: Hemisphere Publishing Corporation, 1992), 223-49.
- ^{xciii}. Dolf Zillmann, *Hostility and Aggression* (Hillsdale, N.J.: Lawrence Erlbaum Associates, 1979), 145-155.
- ^{xciii}. Berkowitz and LePage themselves acknowledged the element of suspicion on the part of subjects as a significant factor in the experiment, and mentioned it several times in the course of their article. For example, the experiment was run on 139 subjects, but 39 subjects were subsequently "discarded" for various reasons; for 21 of these, suspicion expressed by the subject was the basis for their disqualification.
- ^{xciii}. Dolf Zillmann, *Hostility and Aggression* (Hillsdale, N.J.: Lawrence Erlbaum Associates, 1979), 150.
- ^{xciii}. Desmond P. Ellis, Paul Weinir, and Louie Miller III, "Does the Trigger Pull the Finger? An Experimental Test of Weapons as Aggression-Eliciting Stimuli," *Sociometry*, 34 (1971):453-65.
- ^{xciii}. It seems to us an easy task to create more realistic scenarios where the presence of a gun would be a reasonable expectation, especially here in the U.S. where firearms are commonplace. For example, one might plan an experiment to be performed on a field trip in a wooded area or at a firearm range, and have "loaded" guns (loaded with blanks, only) easily available to the subject. We would, however, strongly recommend that a qualified firearm instructor be consulted in designing such an experiment in order to ensure both the safety of all participants, and realism of the experimental conditions.
- ^{xciii}. Centers for Disease Control and Prevention, "Firearm-Associated Homicides among Family Members, Relatives, or Friends--Ohio," *Epidemiologic Notes and Reports* 38 (April 1989):253-56, <www.cdc.gov/mmwr/preview/mmwrhtml/00001376.htm>
- ^{xciii}. James D. Wright and Peter Rossi, *Armed and Considered Dangerous: A Survey of Felons and their Firearms* (N.Y.: Aldine de Gruyter, 1986), 92-93.
- ^{xciii}. Craig A. Anderson, Arlin J. Benjamin, Jr., and Bruce D. Bartholow, "Does the Gun Pull the Trigger? Automatic Priming Effects of Weapon Pictures and Weapon Names," *Psychological Science* 9 (July 1998), 308-14.
- ^{xciii}. The authors noted that "The standard explanation of this weapons effect on aggressive behavior involves priming: identification of a weapon is believed to automatically increase the accessibility of aggression-related thoughts."
- ^{xciii}. Charles W. Turner, John F. Layton, and Lynn Stanley Simons, "Naturalistic Studies of Aggressive Behavior: Aggressive Stimuli, Victim Visibility, and Horn Honking," *Journal of Personality and Social Psychology* 31 (1975):1098-1107.
- ^{xciii}. Figures given by authors represent mean subject reaction times.
- ^{xciii}. There was relatively little ambiguity in the identification of the weapon primes; however, this was not true for the plant primes: one of the "fruit" drawings could easily be interpreted as a slice of meat, or even an embryo; one of the "tree" drawings could be mistaken for the mushroom cloud of a nuclear explosion.
- ^{xciii}. In both experiments, subsequent trials commenced following a delay of 0.5 seconds. Sessions lasted approximately 30 minutes for the first experiment, and 45-60 minutes for the second.
- ^{xciii}. Both the list of aggressive and nonaggressive words contained words which were ambiguous and had several possible common alternative meanings. Consider the following examples, noting that, in each instance, both aggressive and nonaggressive interpretations can apply to each word. One can "strike" an agreement, or "strike" a person, or go on "strike" at one's place of employment. One can "punch" an antagonist, or drink a glass of "punch." One can "wound" an assailant, or a clock can be "wound"; in a case such as this, subject confusion about how to correctly pronounce the word prior to reciting it aloud could contaminate the response. When the goal of these experiments was to assess timed responses measured in thousandths of a second, and just a few thousandths of a second is considered "statistically significant", the confusion presented by word ambiguities may be important, and there is no indication that the researchers took this factor into account.
- ^{xciii}. *Supra* note 1.
- ^{xciii}. Edgar A. Suter, William C. Waters, George B. Murray, et al, "Violence in America: Effective Solutions," *Journal of the Medical Association of Georgia* 84 (June 1995):253-63.
- ^{xciii}. As Kleck pointed out, there are two methods which can be used to determine the size of the civilian gun stock. One is based on manufacturing figures and adjusted for imported and exported guns. The other is based on gun-owner surveys; one of the major flaws in estimation by this method is respondent denial of firearm ownership, both intentional and unintentional. The figures cited here were obtained using the former method. Gary Kleck, *Point Blank: Guns and Violence in America* (N.Y.: Aldine de Gruyter, 1991), 63-103.

^{xciii}. Kates and Polsby cite Kleck as noting: “About half of the time gun stock increases have been accompanied by violence decreases, and about half of the time [they have been] accompanied by violence increases, just what one would expect if gun levels had no impact on violence rates.” Don B. Kates and Daniel D. Polsby, “Long-Term Nonrelationship of Widespread and Increasing Firearm Availability in the United States,” *Homicide Studies* 4 (May 2000):185-201, <www.donkates.com/don&dan.html>

^{xciii}. According to the U.S. Department of Justice, in 1998, the violent crime rate had fallen to its lowest point since 1973. Gary Fields, “Study Shows Decline in Violent Crime,” *USA Today*, 19 July 1999. See also Alfred Blumstein and Richard Rosenfeld, “Assessing the Recent Ups and Downs in U.S. Homicide Rates,” *Crime’s Decline—Why?*, National Institute of Justice Journal (October 1998), 10. See also Fox Butterfield, “U.S. Crime Figures were Stable in 2000 After 8-Year Drop,” *New York Times*, 31 May 2001.

^{xciii}. M.A.J. McKenna, “Gun Deaths Decline in United States,” *Detroit Free Press*, 19 November 1999.

As Kates and Polsby have noted, “Over the past three decades, particularly in the mid-1980s, 30 or more states have enacted laws allowing any trained, law abiding adult to obtain on application a license to carry a concealed firearm [this includes the ten states that eased restrictions on the concealed-carry of handguns between 1987 and 1990, and several others which enacted similar laws afterwards] . . . Since 1990 one to two million residents of these 31 states have been issued licenses to carry concealed handguns.” Don B. Kates and Daniel D. Polsby, “Long-Term Nonrelationship of Widespread and Increasing Firearm Availability in the United States,” *Homicide Studies* 4 (May 2000):185-201, <www.donkates.com/don&dan.html> Moreover, between 1973 and 1994, the percentage of the total estimated civilian gun stock comprised of handguns rose from about 29% to about 36%. Gary Kleck, *Point Blank: Guns and Violence in America* (N.Y.: Aldine de Gruyter, 1991), 49-50. These factors would have served to make handguns more readily accessible for immediate use.

^{xciii}. Gary Kleck and Marc Gertz, “Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun,” *Journal of Criminal Law and Criminology* 86 (1995):150-87, <www.saf.org/LawReviews/KleckAndGertz1.htm>.

^{xciii}. Gary Kleck, *Targeting Guns: Firearms and their Control*, (N.Y.: Aldine de Gruyter, 1997), 162.

^{xciii}. Alan J. Lizotte and James Tesoriero, “Gun Ownership and Delinquency,” *Urban Delinquency and Substance Abuse: Technical Report*, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (November 1993, revised): Ch. 15. See also “Urban Delinquency and substance Abuse: Initial Findings Report,” U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, July 1993.

^{xciii}. Eighty-four percent of the original study sample was tracked to about 22 years of age, demonstrating a high retention rate. Alan J. Lizotte and Marvin D. Krohn, “Sources of Gun Acquisition among Young Urban Males,” delivered at the November 1999 meeting of the American Society of Criminology.

^{xciii}. The researchers noted that girls rarely own guns and they therefore excluded them from this part of the study’s analysis.

^{xciii}. By the time the study group reached 11th and 12th grade, the number of boys who owned legal guns had risen to about 40, and the number of boys who owned illegal guns had risen to about 60. By this time, therefore, there were approximately 100 gun-owning boys in the study population out of about 660 boys, from a total retained sample of about 900 (males and females, combined). It would be worthwhile to repeat such a study on a larger sample size, especially in an area where restrictions on juvenile possession of firearms are less severe than in New York.

^{xciii}. According to Westen:

Psychologists have offered two conflicting views of adolescent social and personality development. One approach emphasizes that as adolescents grow less dependent upon their parents and try out new values and roles, they often become rebellious and moody, shifting from compliance one moment to defiance the next. According to this **conflict model**, put forth at the turn of the century, and later elaborated by psychodynamic theorists, *conflict and crisis are normal in adolescence*. Conflict theorists argue that adolescents need to go through a period of crisis to separate themselves psychologically from their parents and carve out their own identity. Beeper studies (which page or ‘beep’ participants at random intervals over the course of a day to measure what they are thinking or feeling at the moment; Chapter 9) show that adolescents do, in fact, experience a wider range of moods over a shorter period of time than adults. Longitudinal studies find decreases in hostility and negative emotionality and increases in diligence, self-control, and congeniality as teenagers move into early adulthood. Other theorists argue, however, that the stormy, moody, conflict-ridden adolescent is the exception rather than the rule. According to the **continuity model**, *adolescence is not a turbulent period but is essentially continuous with childhood and adulthood* (all emphases in original).

Drew Westen, *Psychology: Brain, Behavior, and Culture*, (N.Y.: John Wiley & Sons, Inc., 2002), 509-10.

Santrock noted that “Early adolescence is a time when conflict with parents escalates beyond childhood levels,” John W. Santrock, *Life-Span Development*, 6th ed. (Madison, WI: Brown & Benchmark Publishers, 1997), 387-88.

Wright and Rossi noted that, “In the best of circumstances, adolescence can be a much-troubled period in a young man’s life. . . .” James D. Wright and Peter Rossi, *Armed and Considered Dangerous: A Survey of Felons and their Firearms* (N.Y.: Aldine de Gruyter, 1986), 122.

^{xciii}. Sheley and Wright interviewed male students in 10 inner-city public schools. In asking them how they would go about obtaining a gun if they wanted one, “Most felt there were numerous ways but that family, friends, and street sources were the main sources;” 53 percent of the students would “‘borrow’ a gun from a family member or friend,” and 37 percent of the students would “get one off street.” Joseph F. Sheley and James D. Wright, “Gun Acquisition and Possession in Selected Juvenile Samples,” Research in Brief, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention (December 1993).

^{xciii}. Alan J. Lizotte and Marvin D. Krohn, "Sources of Gun Acquisition among Young Urban Males," delivered at the November 1999 meeting of the American Society of Criminology.

^{xciii}. See "Gun Accidents Down," news release from the National Shooting Sports Foundation (Newtown, CT), 6 Feb. 2000. "The National Safety Council's most recent report on accident injuries indicates that in 1998 firearms-related fatalities reached an all-time low of 900—the fewest accidents since record keeping began in 1903."

^{xciii}. Lott noted that "nowhere were guns more common than at schools. Until 1969, virtually every public high school in New York City had a shooting club. High-school students carried their guns to school on the subways in the morning, turned them over to their homeroom teacher or the gym coach and retrieved them after school for target practice. The federal government even gave students rifles and paid for their ammunition. Students regularly competed in city-wide shooting contests, with the winners being awarded university scholarships." John R. Lott, "More Gun Controls? They Haven't Worked in the Past," *Wall Street Journal*, 17 June 1999.

Acceleration of this decline was likely facilitated by passage of the 1990 federal legislation banning guns within 1,000 feet of a school, signed into law by then-President George Bush. Although ruled unconstitutional by the Supreme Court on April 25, 1995, the legislation was reworked, resurrected by Congress, and then signed back into law by President Clinton that same year. The legislation had the practical effect of posting signs on school property containing the message, "Only criminals are allowed to carry guns here; all others are potential victims." As Lott and Landes noted: "While the recent rash of public school shootings during the 1997-98 school year took place after the period of our study, these incidents raise questions about the unintentional consequences of laws. The five public school shootings took place after a 1995 federal law banned guns (including permitted concealed handguns) within a thousand feet of a school. The possibility exists that attempts to outlaw guns from schools, no matter how well meaning, may have produced perverse effects. It is interesting to note that during the 1977 to 1995 period, 15 shootings took place in schools in states without right-to-carry laws and only one took place in a state with this type of law. There were 19 deaths and 97 injuries in states without the law, while there was one death and two injuries in states with the law." John R. Lott, Jr. and William M. Landes, *Multiple Victim Public Shootings, Bombings, and Right-to-Carry Concealed Handgun Laws: Contrasting Private and Public Law Enforcement*, University of Chicago Law School, John M. Olin Law & Economics Working Paper No. 73 (2nd Series, Apr 1999), 5.

^{xciii}. See Linda F. Burghardt, "Chess, Sure. But Rifles? In Great Neck? Great Neck Skirmish: Scholastic Rifle Team," *New York Times*, 28 November 1999. Great Neck, New York, is an upscale politically-liberal suburban community just outside New York City on Long Island. It was solely through the efforts of Howard Last (a civil engineer and a certified firearms instructor) and his 14-year-old daughter Lisa that the Great Neck South High School rifle team came into being. However, Last and his daughter faced stiff opposition from people like Susan Posen who headed a campaign to eliminate riflery in the Great Neck schools. According to Posen, "A rifle is an instrument for killing. Shooting is not a sport. When I read that my community was supporting a rifle team, I was incensed. In light of the horrifying gun violence in so many schools, how can we possibly justify helping our children become adept at using guns. . . . It is my goal to totally ban riflery participation in this town." Last disagreed: "The kids who shoot are nearly always honor students. It's a very, very safe sport. Every year 50,000 people are killed in car accidents, yet we have driver education in the school. Why not firearms training and a varsity riflery team." In a private E-Mail communication (27 May 2002), Last stated, "Besides Lisa, my other reason for forming the team was for the kids. The kids are the future. Almost all the kids were honor students and/or AP scholars." In the end, however, Posen got her wish and the team was disbanded.

^{xciii}. Gary Kleck, "Policy Lessons from Recent Gun Control Research," *Law and Contemporary Problems* 49 (1986), <www.saf.org/lawreviews/lawprobkleck1.htm>

Compare with the position taken by the American College of Physicians: "In the absence of a complete ban on the sale and possession of firearms, steps must be taken to restrict the[ir] availability..." "Firearm Injury Prevention," Position Paper of the American College of Physicians, *Annals of Internal Medicine* 128 (1998):236-41, <www.acponline.org/journals/annals/01feb98/ppguns.htm>

^{xciii}. The program was not really a "buyback" because the government had not originally owned the guns.

^{xciii}. Buyback America Campaign Launched in 84 Communities. H.U.D. Press Release Apr 18, 2000, <www.hud.gov/library/bookshelf18/pressrel/pr00-80.html>

^{xciii}. Michael P. Romero, Garen J. Wintemute, and Jon S. Vernick, "Characteristics of a Gun Exchange Program, and an Assessment of Potential Benefits," *Injury Prevention* 4 (1998):206-10.

^{xciii}. Robin Yurk, Linda Jaramillo, Linda L. Erwin, and Neal J. Rendleman, "Educating the Community about Violence Through a Gun Turn-In Program," *Journal of Community Health* 26 (October 2001):331-44.

^{xciii}. The educational aspect could more aptly be described as anti-gun propaganda intended to frighten the public about firearms. The success of such campaigns appears to lie, not in their enhancement of community safety, but in their heightening of community fear of guns. For example, see Matthew Miller, Deborah Azrael, and David Hemenway, "Community Firearms, Community Fear," *Epidemiology* 11 (November 2000):709-14. "Individuals might feel safer as others acquire guns if they believe these guns would deter unlawful behavior or provide neighbors with weapons with which they could aid potential victims. On the other hand, individuals might feel less safe if they believe that these guns would more readily be available to those who have difficulty controlling hostile impulses...our findings suggest most Americans are not impervious to the psychological effects of guns in their community, and that, by a margin of more than 3 to 1, more guns make others in the community feel less safe rather than safer." See also David Hemenway, Sara J. Solznick, and Deborah R. Azrael, "Firearms and Community Feelings of Safety," *Journal of Criminal Law and Criminology* 86 (1995):121-32. "This Article provides suggestive evidence that possession of firearms imposes, at minimum, psychic costs on most other members of the community...Eighty-five percent of non-gun-owners report they would feel less safe if more

people in their community acquired guns; only 8% would feel more safe. By a ten-to-one margin, they prefer others not to acquire firearms.”

^{xciii}. New York City Mayor Michael Bloomberg intended to send the same message to residents of his city in the spring of 2002. Facing a 22.3 percent increase in “shooting incidents” between January 1, 2002 and May 5, 2002, compared to same time period the year before, New York City’s new administration implemented a “Cash for Guns” program. In a May 7, 2002 press release, Mayor Bloomberg and Police Commissioner Raymond Kelly jointly announced that the NYPD would pay “\$100 for the [anonymous] surrender of every handgun, sawed-off shotgun and assault weapon” as part of the department’s “latest initiative to prevent street violence.” A similar 1999 program in New York City yielded a total of 1,900 guns in a 30-day period. Bloomberg and Kelly declared that “This program is . . . another step to reducing violence”, that anyone who participated would “make your home and your city a safer place”, and that “we expect many people would prefer to have cash in their pockets than a deadly weapon in their homes.” “*New Anti-gun Initiative Pays Cash for Lethal Weapons*,” Press Release, Office of the Mayor, May 7, 2002 PR-108-02. See also William K. Rashbaum, “\$100 Offered for Any Gun Turned In. No Questions Asked,” *New York Times*, 8 May 2002.

^{xciii}. See Peter Slavín, “Buying Back Safer Streets?,” *Washington Post*, 19 May 2000.

^{xciii}. David R. Meddings and Stephanie M. O’Connor, “Circumstances Around Weapon Injury in Cambodia after Departure of a Peacekeeping Force: Prospective Cohort Study,” *British Medical Journal* 319 (August 14, 1999):412-15, <bmj.com/cgi/content/full/319/7207/412>

^{xciii}. See also Jianwei Wang, “Aborted Disarmament,” *Managing Arms in Peace Processes: Cambodia*, U.N. Disarmament and Conflict Resolution Project (N.Y. and Geneva: 1996), 32-81.

^{xciii}. “Durbin Calls for Gun-Storage Law,” News Summaries, JoinTogether Online, 28 April 1998, <www.jointogether.org/gv/news/summaries/reader/0,2061,26101,00.html>

^{xciii}. While the claim is often made that every day, 15 (or some similar figure) “American children are killed with guns,” this statistic is true only if one counts as “children” 19-year-old drug-dealers shot by rivals, and many other criminal older male teenagers. Under this definition of “children”, Durbin was technically accurate.

^{xciii}. “Ill. Residents Must Store Guns Under Lock and Key,” News Summaries, JoinTogether Online, 10 June 1999, <www.jointogether.org/gv/news/summaries/reader/0,2061,259069,00.html>

^{xciii}. Andrew J. McClurg, “Child Access Prevention Laws: A Common Sense Approach to Gun Control,” *St. Louis University Public Law Review* 18 (1999):47-97.

^{xciii}. Kimi Yoshino, “No Easy Answers: Gun Advocates say Fear of Liability Keeps Parents from Teaching Survival Skills,” *Fresno Bee*, 26 August 2000.

^{xciii}. Violation of California’s firearm storage law is punishable by imprisonment in the state prison for up to 3 years, by a fine up to a maximum of \$10,000, or both fine and imprisonment. See Part 4, Title 2, California Penal Code, Sec. 12035(d)(1, 2).

^{xciii}. Gwen O’Brien, “11-Year-Old Shoots, Kills Assailant Threatening his Grandmother,” *South Bend Tribune*, 7 February 2002.

^{xciii}. Garen Wintemute, “Guns and Gun Violence,” *The Crime Drop in America*, ed. Alfred Blumstein and Joel Wallman (Cambridge, Mass.: Cambridge University Press, 2000), 86.

^{xciii}. John R. Lott and John E. Whitley, “Safe Storage Gun Laws: Accidental Deaths, Suicides, and Crime,” *Journal of Law and Economics* (forthcoming).

^{xciii}. Katherine Kaufer Christoffel, “Toward Reducing Pediatric Injuries from Firearms: Charting a Legislative and Regulatory Course,” *Pediatrics* 88 (1991):294-305.

^{xciii}. In 1988, a year before enacting the first statewide “assault weapons” ban, the California Attorney General’s office had already concluded that a consistent definition of “assault weapon” was impossible. See Edgar A. Suter, “ ‘Assault Weapons’ Revisited—An Analysis of the AMA Report,” *Journal of the Medical Association of Georgia* 83 (1994): 281-89.

^{xciii}. This is exemplified by New York State Gov. George Pataki’s “5-Point” gun-control package, signed into law on August 9, 2000. In a press release, Pataki outlined the measures included in the sweeping legislation he lobbied for and shepherded through the state legislature. For example, one of the provisions provided for criminal sanctions for the possession and sale of “assault weapons” and large capacity ammunition feeding devices in New York State. Since 1994, federal law has restricted the possession of assault weapons and large capacity ammunition clips. This measure mirrors the federal provisions and definitions of “assault weapon” and “large capacity ammunition feeding device.” See generally Jeffrey A. Roth and Christopher S. Koper, *Impacts of the 1994 Assault Weapons Ban: 1994-96*, Research in Brief, National Institute of Justice, U.S. Department of Justice (March 1999). As Roth and Koper noted, “The ban has failed to reduce the average number of victims per gun murder incident or multiple gunshot wound victims....The public safety benefits of the 1994 ban have not yet been demonstrated.”

Another provision of the Pataki plan provided for an increase in the age requirement for obtaining a New York State handgun license, from 18 years of age to 21. Pataki justified the increase by noting: “Each year since 1988, more than 80 percent of homicide victims 15 to 19 years of age were killed with a handgun, according to the CDC.” Compare this with Sen. Durbin’s statement, *supra* note 64. The statistic cited by Pataki includes, as “children” in the 15-19 year age group, drug dealers and gang members.

Additionally, the new law also required a firearms retailer to: include a child safety locking device with all purchases, post notices regarding safe storage of guns in their place of business, and include gun safety information with the purchase of any gun.

^{xciii}. Maryland enacted the first statewide ban on “Saturday Night Specials” in 1988, by establishing a system for review of handguns. A nine-member Handgun Roster Board was charged with listing a roster of “permitted handguns.” According to the Maryland statute, “The Board shall consider the following characteristics of a handgun in determining whether any handgun should be placed on the handgun roster: (i) concealability; (ii) ballistic accuracy; (iii) weight; (iv) quality of materials; (v) quality of manufacture; (vi) reliability as to safety; (vii) caliber; (viii) detectability by the standard security equipment . . . ; and (ix) utility for legitimate sporting activities, self-protection or law enforcement.” Monica Fennell, “Missing the Mark in Maryland: How Poor Drafting and Implementation Vitiating a Model State Gun Control Law,” *Hamline Journal of Public Law and Policy*, 13 (1992):37-71, <www.saf.org/LawReviews/Fennell1.htm>

After the West Hollywood, California, city council voted to implement its own “Saturday Night Special” ban in January 1996, San Diego Police Department forensic scientist Eugene Wolberg noted of that city’s ordinance: “Unknown to the authors of the SNS law, the definitions used actually describe a much larger list than was envisioned by the ordinance’s drafters. The guns included are most of today’s modern firearms that use plastics, nylon polymers, zinc and aluminum for their construction materialsThe real incidence of use [of these guns in crime] is somewhere between 10 and 15 percent depending on the year, and these percentages are steadily declining, mostly due to economic factors.” Eugene J. Wohlberg, “‘Saturday Night Special’ Myth,” *San Diego Union-Tribune*, 22 June 1997.

^{xciii}. Tom McCann, “Sniper Rifle Ban Urged Again: Blagojevich Says They’re Terrorists’ ‘Weapon of Choice,’” *Chicago Tribune*, 22 October 2001. Blagojevich has attempted to enact such a law since 1999. Capitalizing on the political environment created by the September 11 attacks, Blagojevich labeled the guns “the terrorist weapon of choice,” and declared: “In response to these terrorist tragedies we have to get them off the market.”

However, as Kopel and Wheeler noted:

“Gun banners are now rushing to demonize the latest politically incorrect sporting gun—the .50 caliber target rifle. The Washington, D.C.-based Violence Policy Center (VPC) now equates .50-caliber hobbyists with gunrunners for the Taliban....[Blagojevich and] California Sen. Dianne Feinstein . . . have sponsored the ‘Military Sniper Weapon Regulation Act’ and have denounced .50-caliber target shooters as ‘terrorists,’ doomsday cultists, and criminals’ (in the words of Sen. Feinstein)....Mary Blek, President of the ‘Million’ Mom March, asserts that the Founding Fathers would have had no use for a .50-caliber rifle (Nov. 28, 2001, McKendree College debate). Actually, the common guns of the early American republic were larger than .50 caliber. The Queen Anne Colonial Musket (manufactured around 1670-1700) was .812. That gun was supplanted by various versions of the English Brown Bess musket, which was .75 caliber. America’s French allies supplied the Patriots with the .70 Charleville Musket. The Dutch muskets bought by the Americans were .65 caliber....In other words, a great many of the guns which were most commonly owned and known in early America were at least .50 caliber [emphasis in original]....So the very same guns that Sen. Feinstein lauded in her ‘Recreational Firearm Use Protection Act,’ in 1994, are now said to be ‘clearly distinguishable from rifles intended for sporting and hunting use.’ One suspects that firearms stay on her personal list of ‘good’ guns only so long as there is no political opportunity to urge their prohibition.”

Dave Kopel and Timothy Wheeler, “Guns and (Character) Assassination,” *National Review Online*, 21 December 2001, <www.nationalreview.com/kopel/kopel122101.shtml>

^{xciii}. Edgar A. Suter, “Goldilocks Gun Control?,” *Gun Week*, 10 January 1997.

^{xciii} The Gun Control Act of 1968 eliminated mail-order firearm sales, and required that “No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license [Federal Firearms License, or FFL] to do so” Title I of the Gun Control Act of 1968, Public Law 99-308, Sec. 923(a).

^{xciii} Joseph P. Tartaro, “The 200,000 Missing Gun Salesmen,” *Gun Week*, 1 February 1998. Tartaro noted that the 287,000 figure for FFLs represented not just retailers, but included manufacturers, importers, distributors and gunsmiths.

^{xciii}. Treasury undersecretary for enforcement, Raymond Kelly, stated that the dramatic decrease in FFLs was the result of Clinton Administration directives mandating stricter licensing requirements (including compliance with local zoning regulations) and higher application fees. The fee for a new (3-year) license rose from \$30 to \$200; the fee for renewals rose from \$30 to \$90. “Number of Federally-Licensed Gun Dealers Drops to Record Low,” *Gun Week*, 1 March 1997.

^{xciii}. Restricting the sale of firearms has become increasingly fashionable. In October 1999, Massachusetts Attorney General Thomas F. Reilly ordered local chiefs of police to begin enforcing a provision of the state’s new law and suspend the state licenses of home-based firearm dealers. According to the new provision, gun dealers must “maintain a place of business which is not a residence or dwelling.” At the time the provision went into force, there were an estimated 1,000 licensed gun dealers in the state; 75% of these were believed to be operating from their homes. Robert M. Hausman, “Massachusetts Shutting Down 75% of State’s Gun Retailers,” *Gun Week*, 20 December 1999. In accordance with Massachusetts law, a license is required “to sell, rent or lease firearms, rifles, shotguns or machine guns, or to be in business as a gunsmith. Every license shall specify the street and number of the building where the business is to be carried on, and the license shall not protect a licensee who carries on his business in any other place.” Mass. Gen. L., Part I, Title XX, Chapter 140, Section 122.

A 1994 Cook County, Illinois, ordinance made it illegal for a gun store to operate within a quarter mile of a park or school. Shore Galleries, a gun store which also sells police equipment, was exempted at the time the ordinance was passed. When the management

decided to move to larger quarters just six blocks down the street, the Lincolnwood village zoning board gave its unanimous approval. However, the village council responded to pressure from protesters who included the former head of the Illinois State Police, and rejected the move. Commenting on the situation, Illinois State Rep. Janice D. Schakowski stated “We’ve got to keep this neighborhood safe for our children.” Les Klein, an area resident and father of three children stated: “Having a gun store next to a park where kids play basketball and baseball isn’t the message we should send to our children.” His wife, a member of Citizens for Safer Lincolnwood, added, “There needs to be a buffer zone here where kids are protected.” Reportedly, 85% of the store’s customers are police officers. “Suburban Chicago Protesters Prevent Gun Shop’s Move,” *Gun Week*, 1 August 1997.

^{xciii}. *Promising Strategies To Reduce Gun Violence*, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, February 1999, 87.

^{xciii}. *Small Arms Survey 2001: Profiling the Problem*, Graduate Institute of International Studies, Geneva. (United Kingdom, Oxford University Press, 2001), 204-207.

^{xciii}. The genocide in Rwanda, a country approximately the size of the state of Maryland, began on April 7, 1994, and lasted until July 19, 1994. While it was not the largest genocide perpetrated during the 20th century, it is “perhaps the most concentratedEven the Nazis ‘production line’ murder methods could not sustain Rwanda’s average daily rate of about 8,000 murders per day.” Jay Simkin, Aaron Zelman, & Alan M. Rice, *Rwanda’s Genocide 1994: Supplement to Lethal Laws* (Milwaukee: JPFO Press, 1997). As Prunier noted, it has been conservatively estimated that, within a period of 3 months, 800,000 civilians were killed in Rwanda. Gérard Prunier, *The Rwanda Crisis: History of a Genocide* (N.Y.: Columbia University Press, 1995), 265.

^{xciii}. “Rwanda’s tragedy was the world’s tragedy. All of us who cared about Rwanda, all of us who witnessed its suffering, fervently wish that we could have prevented the genocide...Now we know that what we did was not nearly enough...in their greatest hour of need, the world failed the people of Rwanda.” Secretary-General Kofi Annan’s address to the Parliament of Rwanda, in Kigali, May 7, 1998. U.N. Press Release SG/SM/6552, AFR/56, 06 May 1998, <www.un.org/News/Press/docs/1998/19980506.SGSM6552.html>

^{xciii}. *Arms Availability and the Situation of Civilians in Armed Conflicts*, A Study presented by the International Committee of the Red Cross (1 June 1999), <www.icrc.org/Web/eng/siteeng0.nsf/iwpList74/2C8CDB68E2366CE8C1256B66005D7A56>

^{xciii}. *Small Arms Survey 2001: Profiling the Problem*, Graduate Institute of International Studies, Geneva. (United Kingdom, Oxford University Press, 2001), 207.

^{xciii}. If, indeed, firearms and other weapons engendered genocide, with about one firearm/person in the U.S., and numerous tanks, bazookas, mortars, flame-throwers, rockets, and nuclear devices, one might have reason to conclude that genocide in the U.S. is imminent.

^{xciii}. Jay Simkin, Aaron Zelman, & Alan M. Rice, *Rwanda’s Genocide 1994: Supplement to Lethal Laws* (Milwaukee: JPFO Press, 1997). The authors further noted: “In pre-genocide Rwanda, every adult was legally required to have a ‘national identity’ card, which stated the bearer’s ethnicity. These ‘national identity’ cards became death warrants for tens of thousands of victims.”

^{xciii}. The cost to the genocide perpetrators would have been significantly raised if effective resistance were offered by the victims, i.e. through their use of firearms.

^{xciii}. See supra note 25.

^{xciii}. Leonard Berkowitz, “Impulse, Aggression and the Gun,” *Psychology Today*, September 1968, 20.

^{xciii}. Leonard Berkowitz, “How Guns Control Us,” *Psychology Today* (June 1981):11-12.