



STUDY GUIDE

WHAT SHOULD WE DO ABOUT GUN CONTROL?

KEY TERMS: common sense gun control platitudes
assault weapon Second Amendment referendum

NOTE-TAKING COLUMN: Complete this section <i>during</i> the video. Include definitions and key terms.	CUE COLUMN: Complete this section <i>after</i> the video.
<p>How did the Australian Government react to the mass murder of 34 people in Tasmania?</p> <p>If the 'Australian Model' were to be implemented in the U.S., how many guns would still be left over?</p> <p>In the 2007 International Small Arms Survey of 72 countries, how many people actually complied with gun confiscation laws?</p>	<p>Why do politicians sometimes demand 'common sense gun control?'</p> <p>Why don't gun bans work?</p>

DISCUSSION & REVIEW QUESTIONS:

- Towards the beginning of the video, Professor Johnson explains the root theory underlying the notion of so-called 'gun control,' "The basic idea is that fewer guns equal less gun crime. But for this theory to have even a chance of working drastic reductions in the supply of guns will be necessary. Everything else amounts to security theatre. The late Senator Howard Metzenbaum... explained it this way: 'If you don't ban all guns you might as well ban none of them.'" What do you think Professor Johnson means by 'security theatre?' What might be the reasoning for Senator Metzenbaum's argument that all guns or no guns should be banned?
- Further, Professor Johnson explains that, "Even putting aside the issue of the Second Amendment to the Constitution, which affirms the right to keep and bear arms, a gun ban has no broad popular support... handgun ban referendums failed in two of our most liberal states - Massachusetts in 1976 and California in 1982 by large margins." Why do you think that the handgun bans failed? Do you think that Professor Johnson's claim that a gun ban has no popular support is still valid? Why or why not?
- Later in the video Professor Johnson shares with us that, "Recently Australia's gun control efforts have gained new prominence as a possible model for the United States to follow. [But] ... this model will not work in the United States for the simple reason that the US has roughly 325 million guns. This is orders of magnitude more than any other country. Even if the Australian plan were tried in the US and worked to perfection, we'd still be left with over 200 million guns, including handguns which account for nearly 80 percent of gun crime." Considering the sheer number of guns in the U.S., do you think than any type of ban on guns would have a significant impact on reducing gun crime? Why or why not?
- Professor Johnson then points out that, "...politicians advocating for gun control prefer to avoid the thorny issues that confiscation raises. Instead, they seek to have it both ways. They pursue the votes of gun owners by paying lip service to the Second Amendment and offering assurances that they only want to ban 'the bad guns' like rifles with pistol grips. And at the same time, they pander to their core constituents with broad gun ban rhetoric, and supply control proposals that will have a marginal effect at best." Consider the notion that, "Guns don't kill people... people kill people." And the corollary "Guns don't protect people, people protect people." Considering that a gun can be a tool used to harm others or to protect others, and that bad people choose to use the tool to harm whereas good people choose to use the tool to protect others, do you think that restricting access to guns would be better for bad people or better for good people (keeping in mind that it's the people and their intent and actions that are good or bad, not the gun)? Why do you think that politicians still advocate for gun control even though confiscation doesn't work, and a gun ban would simply leave good people defenseless while criminals would have plenty of illegally obtained guns to victimize people with?
- Professor Johnson concludes the video by challenging the 'critics of America's gun culture,' "If supply controls are the answer, describe precisely the full program of supply side policies you propose to stop the gun crimes that we all abhor. And then tell us how those policies will also allow lawful gun owners to keep and protect themselves with firearms. If you cannot square these two things, then you must convince Americans that they are better off under policies that would disarm good people, in a fruitless attempt to keep bad men

from getting guns.” Considering that gun control measures restrict the freedoms of law-abiding citizens whilst making it easier for criminals to victimize others (since criminals disregard the law and obtain guns anyways), do you think that more gun control measures should be legislated and enforced? Why or why not? If all guns could somehow be magically eliminated, terrorists, street criminals, and even some mentally ill would still find ways to hurt and kill people, even in mass numbers... and police and good citizens would have fewer options to mitigate or to prevent such violence. What do you think are some realistic measures that could lower gun violence, especially in schools, and yet preserve the Second Amendment right to bear arms?

EXTEND THE LEARNING:

CASE STUDY: Harvard Journal of Law & Public Policy

INSTRUCTIONS: Read the article “WOULD BANNING FIREARMS REDUCE MURDER AND SUICIDE,” then answer the questions that follow.

- How does the murder rate in Russia (where guns are scarce) compare to the murder rate in the United States? What does Table 1: European Gun Ownership and Murder Rates show in terms of Murder Rate to Gun Ownership? What is the conclusion at the top of page 665? Who is Hans Toch, and what does he have trouble explaining? What do the authors conclude regarding the demographic patterns of gun owners in relation to criminal behavior?
- What are the top three prescient points that the authors make?
- In what ways does this article support the points made by Professor Johnson in the video?



QUIZ

WHAT SHOULD WE DO ABOUT GUN CONTROL?

1. What does the Second Amendment do?

- a. It affirms the right for wealthy individuals to keep and bear arms.
- b. It affirms the right to keep and bear arms only during times of war.
- c. It affirms the right for the government to keep and bear arms.
- d. It affirms the right to keep and bear arms.

2. Why would Australia's gun control efforts not work in the United States?

- a. There are too many immigrants.
- b. There are too many guns.
- c. There are too many rifles.
- d. There are too many gun owners.

3. What would happen if Americans defied gun bans?

- a. The world would be a safer place.
- b. Tens of millions of guns would flood into the black market.
- c. Nothing.
- d. They would be jailed for 5-10 years.

4. If the US adopted Australia's gun control efforts, how many of the roughly 325 million guns would be left?

- a. 20 million
- b. 32 million
- c. 100 million
- d. 200 million

5. The answer to gun control is to ban all guns.

- a. True
- b. False



QUIZ - ANSWER KEY

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WOULD BANNING FIREARMS REDUCE MURDER AND SUICIDE?

A REVIEW OF INTERNATIONAL AND SOME DOMESTIC EVIDENCE

DON B. KATES* AND GARY MAUSER**

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INTRODUCTION

International evidence and comparisons have long been offered as proof of the mantra that more guns mean more deaths and that fewer guns, therefore, mean fewer deaths.¹ Unfortunately, such discussions are all too often afflicted by misconceptions and factual error and focus on comparisons that are unrepresentative. It may be useful to begin with a few examples. There is a compound assertion that (a) guns are uniquely available in the United States compared with other modern developed nations, which is why (b) the United States has by far the highest murder rate. Though these assertions have been endlessly repeated, statement (b) is, in fact, false and statement (a) is substantially so.

Since at least 1965, the false assertion that the United States has the industrialized world's highest murder rate has been an artifact of politically motivated Soviet minimization designed to hide the true homicide rates.² Since well before that date, the Soviet Union

1. *See, e.g.*, JOHN GODWIN, MURDER USA: THE WAYS WE KILL EACH OTHER 281 (1978) ("Areas with the highest proportion of gun owners also boast the highest homicide ratios; those with the fewest gun owners have the lowest."); N. PETE SHIELDS, GUNS DON'T DIE, PEOPLE DO 64 (1981) (quoting and endorsing an English academic's remark: "We cannot help but believe that America ought to share the basic premise of our gun legislation—that the availability of firearms breeds violence."); Janice Somerville, *Gun Control as Immunization*, AM. MED. NEWS, Jan. 3, 1994, at 9 (quoting public health activist Katherine Christoffel, M.D.: "Guns are a virus that must be eradicated Get rid of the guns, get rid of the bullets, and you get rid of the deaths."); Deane Calhoun, *From Controversy to Prevention: Building Effective Firearm Policies*, INJ. PROTECTION NETWORK NEWSL., Winter 1989–90, at 17 ("[G]uns are not just an inanimate object [sic], but in fact are a social ill."); *see also* WENDY CUKIER & VICTOR W. SIDEL, THE GLOBAL GUN EPIDEMIC: FROM SATURDAY NIGHT SPECIALS TO AK-47S (2006); Susan Baker, *Without Guns, Do People Kill People?* 75 AM. J. PUB. HEALTH 587 (1985); Paul Cotton, *Gun-Associated Violence Increasingly Viewed as Public Health Challenge*, 267 J. AM. MED. ASS'N 1171 (1992); Diane Schetky, *Children and Handguns: A Public Health Concern*, 139 AM. J. DIS. CHILD. 229, 230 (1985); Lois A. Fingerhut & Joel C. Kleinman, *International and Interstate Comparisons of Homicides Among Young Males*, 263 J. AM. MED. ASS'N 3292, 3295 (1990).

2. *See* William Alex Pridemore, *Using Newly Available Homicide Data to Debunk Two Myths About Violence in an International Context: A Research Note*, 5 HOMICIDE STUD. 267 (2001).

possessed extremely stringent gun controls³ that were effectuated by a police state apparatus providing stringent enforcement.⁴ So successful was that regime that few Russian civilians now have firearms and very few murders involve them.⁵ Yet, manifest success in keeping its people disarmed did not prevent the Soviet Union from having far and away the highest murder rate in the developed world.⁶ In the 1960s and early 1970s, the gun-less Soviet Union's murder rates paralleled or generally exceeded those of gun-ridden America. While American rates stabilized and then steeply declined, however, Russian murder increased so drastically that by the early 1990s the Russian rate was three times higher than that of the United States. Between 1998-2004 (the latest figure available for Russia), Russian murder rates were nearly four times higher than American rates. Similar murder rates also characterize the Ukraine, Estonia, Latvia, Lithuania, and various other now-independent European nations of the former U.S.S.R.⁷ Thus, in the United States and the former Soviet Union transitioning into current-day Russia, "homicide results suggest that where

3. See GEORGE NEWTON & FRANKLIN ZIMRING, FIREARMS AND VIOLENCE IN AMERICAN LIFE: A STAFF REPORT SUBMITTED TO THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE 119 & n.3 (1970).

4. Russian law flatly prohibits civilian possession of handguns and limits long guns to licensed hunters. *Id.* For more on the stringency of enforcement, see Raymond Kessler, *Gun Control and Political Power*, 5 LAW & POL'Y Q. 381, 389 (1983), and Randy E. Barnett & Don B. Kates, *Under Fire: The New Consensus on the Second Amendment*, 45 EMORY L. J. 1139, 1239 (1996) (noting an unusual further element of Soviet gun policy: the Soviet Army adopted unique firearm calibers so that, even if its soldiers could not be prevented from returning with foreign gun souvenirs from foreign wars, ammunition for them would be unavailable in the Soviet Union).

5. See Pridemore, *supra* note 2, at 271.

6. Russian homicide data given in this article (for years 1965-99) were kindly supplied us by Professor Pridemore from his research in Russian ministry sources (on file with authors). See also *infra* Table 1 (reporting Russian homicide data for 2002).

7. The highest U.S. homicide rate ever reported was 10.5 per 100,000 in 1980. See Jeffery A. Miron, *Violence, Guns, and Drugs: A Cross-Country Analysis*, 44 J.L. & ECON. 615, 624-25 tbl.1 (2001). As of 2001, the rate was below 6. *Id.* The latest rates available for the Ukraine, Belarus, and other former Soviet nations in Europe come from the mid-1990s, when all were well above 10 and most were 50% to 150% higher. *Id.*

Note that the U.S. rates given above are rates reported by the FBI. There are two different sources of U.S. murder rates. The FBI murder data is based on reports it obtains from police agencies throughout the nation. These data are significantly less complete than the alternative (used in this article unless otherwise explicitly stated) rates of the U.S. Public Health Service, which are derived from data collected from medical examiners' offices nationwide. Though the latter data are more comprehensive, and the Public Health Service murder rate is slightly higher, they have the disadvantage of being slower to appear than the FBI homicide data.

guns are scarce other weapons are substituted in killings.”⁸ While American gun ownership is quite high, Table 1 shows many other developed nations (e.g., Norway, Finland, Germany, France, Denmark) with high rates of gun ownership. These countries, however, have murder rates as low or lower than many developed nations in which gun ownership is much rarer. For example, Luxembourg, where handguns are totally banned and ownership of any kind of gun is minimal, had a murder rate nine times higher than Germany in 2002.⁹

Table 1: European Gun Ownership and Murder Rates
(rates given are per 100,000 people and in descending order)

Nation	Murder Rate	Rate of Gun Ownership
Russia	20.54 [2002]	4,000
Luxembourg	9.01 [2002]	c. 0
Hungary	2.22 [2003]	2,000
Finland	1.98 [2004]	39,000
Sweden	1.87 [2001]	24,000
Poland	1.79 [2003]	1,500
France	1.65 [2003]	30,000
Denmark	1.21 [2003]	19,000
Greece	1.12 [2003]	11,000
Switzerland	0.99 [2003]	16,000
Germany	0.93 [2003]	30,000
Norway	0.81 [2001]	36,000
Austria	0.80 [2002]	17,000

Notes: This table covers all the Continental European nations for which the two data sets given are both available. In every case, we have given the homicide data for 2003 or the closest year thereto because that is the year of the publication from which the gun ownership data are taken. Gun ownership data comes from GRADUATE INSTITUTE OF INTERNATIONAL STUDIES, SMALL ARMS SURVEY 64 tbl.2.2, 65 tbl.2.3 (2003).

The homicide rate data comes from an annually published report, CANADIAN CENTRE FOR JUSTICE STATISTICS, HOMICIDE IN CANADA, JURISTAT, for the years 2001–2004. Each year’s report gives homicide statistics for a dozen or so foreign nations in a section labeled “Homicide Rates for Selected Countries.” This section of the reports gives no explana-

8. GARY KLECK, TARGETING GUNS: FIREARMS AND THEIR CONTROL 20 (1997) (discussing patterns revealed by studies in the United States).

9. Our assertions as to the legality of handguns are based on COMM’N ON CRIME PREVENTION & CRIM. JUSTICE, U.N. ECON. & SOC. COUNCIL, UNITED NATIONS INTERNATIONAL STUDY ON FIREARMS REGULATION 26, tbl. 2-1 (1997 draft).

tion of why it selects the various nations whose homicide statistics it covers. Also without explanation, the nations covered differ from year to year. Thus, for instance, murder statistics for Germany and Hungary are given in all four of the pamphlets (2001, 2002, 2003, 2004), for Russia in three years (2001, 2002, and 2004), for France in two years (2001 and 2003), and for Norway and Sweden in only one year (2001).

The same pattern appears when comparisons of violence to gun ownership are made within nations. Indeed, "data on firearms ownership by constabulary area in England," like data from the United States, show "a *negative* correlation,"¹⁰ that is, "where firearms are most dense violent crime rates are lowest, and where guns are least dense violent crime rates are highest."¹¹ Many different data sets from various kinds of sources are summarized as follows by the leading text:

[T]here is no consistent significant positive association between gun ownership levels and violence rates: across (1) time within the United States, (2) U.S. cities, (3) counties within Illinois, (4) country-sized areas like England, U.S. states, (5) regions of the United States, (6) nations, or (7) population subgroups¹²

A second misconception about the relationship between firearms and violence attributes Europe's generally low homicide

10. JOYCE LEE MALCOLM, *GUNS AND VIOLENCE: THE ENGLISH EXPERIENCE* 204 (2002).

11. Hans Toch & Alan J. Lizotte, *Research and Policy: The Case for Gun Control*, in *PSYCHOLOGY & SOCIAL POLICY* 223, 232 (Peter Suedfeld & Philip E. Tetlock eds., 1992); see also *id.* at 234 & n.10 ("[T]he fact that national patterns show little violent crime where guns are most dense implies that guns do not elicit aggression in any meaningful way. . . . Quite the contrary, these findings suggest that high saturations of guns in places, or something correlated with that condition, inhibit illegal aggression.").

Approaching the matter from a different direction, the earliest data (nineteenth century on) reveals that the American jurisdictions with the most stringent gun controls are in general the ones with the highest murder rates. Conversely, American states with homicide rates as low as Western Europe's have high gun ownership, and impose no controls designed to deny guns to law-abiding, responsible adults. Many possible reasons may be offered for these two facts, but none suggests that gun control reduces murder.

For examination of a wide variety of studies finding little evidence in support of the efficacy of gun controls in reducing violence, see JAMES B. JACOBS, *CAN GUN CONTROL WORK?* 111–20 (2002); KLECK, *supra* note 8, at 351–77; JOHN R. LOTT, JR., *MORE GUNS, LESS CRIME: UNDERSTANDING CRIME AND GUN CONTROL LAWS* 19–20 (1998); JAMES D. WRIGHT ET AL., *UNDER THE GUN: WEAPONS, CRIME AND VIOLENCE IN AMERICA* 307–08 (1983); Matthew R. DeZee, *Gun Control Legislation: Impact and Ideology*, 5 *LAW & POL'Y Q.* 367, 369–71 (1983).

12. KLECK, *supra* note 8, at 22–23.

rates to stringent gun control. That attribution cannot be accurate since murder in Europe was at an all-time low *before* the gun controls were introduced.¹³ For instance, virtually the only English gun control during the nineteenth and early twentieth centuries was the practice that police patrolled without guns. During this period gun control prevailed far less in England or Europe than in certain American states which nevertheless had—and continue to have—murder rates that were and are comparatively very high.¹⁴

In this connection, two recent studies are pertinent. In 2004, the U.S. National Academy of Sciences released its evaluation from a review of 253 journal articles, 99 books, 43 government publications, and some original empirical research. It failed to identify any gun control that had reduced violent crime, suicide, or gun accidents.¹⁵ The same conclusion was reached in 2003 by the U.S. Centers for Disease Control's review of then-extant studies.¹⁶

Stringent gun controls were not adopted in England and Western Europe until after World War I. Consistent with the outcomes of the recent American studies just mentioned, these strict controls did not stem the general trend of ever-growing violent crime throughout the post-WWII industrialized world including the United States and Russia. Professor Malcolm's study of English gun law and violent crime summarizes that

13. Barnett & Kates, *supra* note 4, at 138–42.

14. In the period between 1900 and 1935, Arkansas, Hawaii, Michigan, Missouri, New Jersey, New York, North Carolina, Oregon, and South Carolina adopted laws variously requiring a license to own or buy a handgun or banning handgun purchase altogether, and "Saturday Night Special"-type bans existed in Tennessee, Arkansas, and various other Southern states. Don B. Kates, Jr., *Toward a History of Handgun Prohibition in the United States*, in *RESTRICTING HANDGUNS: THE LIBERAL SKEPTICS SPEAK OUT* 7, 14–15 (Don B. Kates, Jr. ed., 1979).

15. CHARLES F. WELLFORD ET AL., NAT'L RESEARCH COUNCIL, *FIREARMS AND VIOLENCE: A CRITICAL REVIEW* 6–10 (2004). It is perhaps not amiss to note that the review panel, which was set up during the Clinton Administration, was composed almost entirely of scholars who, to the extent their views were publicly known before their appointments, favored gun control.

16. Task Force on Community Preventive Servs., Ctrs. for Disease Control, *First Reports Evaluating the Effectiveness of Strategies for Preventing Violence: Firearms Laws*, 52 *MORTALITY & MORBIDITY WKLY. REP. (RR-14 RECOMMENDATIONS & REP.)* 11, 16 (2003), available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5214a2.htm>. The CDC is vehemently anti-gun and interpreted its results to show not that the "more guns equal more death" mantra is erroneous, but only that the scores of studies it reviewed were inconclusively done.

nation's nineteenth and twentieth century experience as follows:

The peacefulness England used to enjoy was not the result of strict gun laws. When it had no firearms restrictions [nineteenth and early twentieth century] England had little violent crime, while the present extraordinarily stringent gun controls have not stopped the increase in violence or even the increase in armed violence.¹⁷

Armed crime, never a problem in England, has now become one. Handguns are banned but the Kingdom has millions of illegal firearms. Criminals have no trouble finding them and exhibit a new willingness to use them. In the decade after 1957, the use of guns in serious crime increased a hundredfold.¹⁸

In the late 1990s, England moved from stringent controls to a complete ban of all handguns and many types of long guns. Hundreds of thousands of guns were confiscated from those owners law-abiding enough to turn them in to authorities. Without suggesting this caused violence, the ban's ineffectiveness was such that by the year 2000 violent crime had so increased that England and Wales had Europe's highest violent crime rate, far surpassing even the United States.¹⁹ Today, English news media headline violence in terms redolent of the doleful, melodramatic language that for so long characterized American news reports.²⁰ One aspect of England's recent ex-

17. MALCOLM, *supra* note 10, at 219.

18. *Id.* at 209.

19. See Esther Bouten et al., *Criminal Victimization in Seventeen Industrialized Countries*, in *CRIME VICTIMIZATION IN COMPARATIVE PERSPECTIVE: RESULTS FROM THE INTERNATIONAL CRIME VICTIMS SURVEY, 1989-2000* at 13, 15-16 (Paul Nieuwebeerta ed., 2002). The surveys involved were conducted under the auspices of the governments of each nation and the general supervision of the University of Leiden and the Dutch Ministry of Justice.

20. See, e.g., *Gun Crime Growing "Like Cancer,"* BBC NEWS, May 21, 2003, <http://news.bbc.co.uk/1/hi/England/3043701.stm>; David Bamber, *Gun Crime Trebles as Weapons and Drugs Flood British Cities*, TELEGRAPH ONLINE (London), Feb. 27, 2002, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2002/02/24/nguns24.xml>; Jason Bennetto, *Firearms Amnesty to Tackle Surge in Gun Crime*, INDEPENDENT (London), Dec. 27, 2002, at 1; Ian Burrell, *Police Move to Tackle Huge Rise in Gun Crime*, INDEPENDENT (London), Jan. 15, 2001, at 3; Daniel Foggo & Carl Fellstrom, *"We Are Reeling with the Murders, We Are in a Crisis with Major Crime,"* SUNDAY TELEGRAPH (London), Mar. 13, 2005, at 4; Johann Hari, *The British Become Trigger Happy*, NEW STATESMAN (London), Nov. 5, 2001, at 35; Philip Johnston, *Gun Crime Rises Despite Dunblane Pistol Ban*, DAILY TELEGRAPH (London), Jul. 17, 2001, at 05; David Leppard & Rachel Dobson, *Murder Rate Soars to Highest for a Century*, SUNDAY TIMES (Lon-

perience deserves note, given how often and favorably advocates have compared English gun policy to its American counterpart over the past 35 years.²¹ A generally unstated issue in this notoriously emotional debate was the effect of the Warren Court and later restrictions on police powers on American gun policy. Critics of these decisions pointed to soaring American crime rates and argued simplistically that such decisions caused, or at least hampered, police in suppressing crime. But to some supporters of these judicial decisions, the example of England argued that the solution to crime was to restrict guns, not civil liberties. To gun control advocates, England, the cradle of our liberties, was a nation made so peaceful by strict gun control that its police did not even need to carry guns. The United States, it was argued, could attain such a desirable situation by radically reducing gun ownership, preferably by banning and confiscating handguns.

The results discussed earlier contradict those expectations. On the one hand, despite constant and substantially increasing gun ownership, the United States saw progressive and dramatic reductions in criminal violence in the 1990s. On the other hand, the same time period in the United Kingdom saw a constant and dramatic increase in violent crime to which England's response was ever-more drastic gun control including, eventually, banning and confiscating all handguns and many types of long guns.²² Nevertheless, criminal violence rampantly increased so that by 2000 England surpassed the United States to become one of the developed world's most violence-ridden nations.

don), Oct. 13, 2002, at 1; Adam Mitchell, *Gun Killings Double as Police Claim Progress*, DAILY TELEGRAPH (London), Aug. 17, 2001, at 13; John Steele, *Police Fear a New Crime Wave as School-Age Muggers Graduate to Guns*, DAILY TELEGRAPH (London), Jan. 3, 2002, at 04; Jon Ungood-Thomas, *Killings Rise as 3m Illegal Guns Flood Britain*, SUNDAY TIMES (London), Jan. 16, 2000; Peter Woolrich, *Britain's Tough Gun Control Laws Termed Total Failure: Land of Hope and Gunrunning*, PUNCH MAG., May 3, 2000.

21. See, e.g., CARL BAKAL, *THE RIGHT TO BEAR ARMS* 10–11, 31, 279 (1966); RAMSEY CLARK, *CRIME IN AMERICA* 104–05, 109 (1970); AMITAI ETZIONI & RICHARD REMP, *TECHNOLOGICAL SHORTCUTS TO SOCIAL CHANGE* 136 (1973); Natl Coalition to Ban Handguns, *A Shooting Gallery Called America* (undated, unpaginated pamphlet); SHIELDS, *supra* note 1, at 63–64; Irwin Bloch, *Gun Control Would Reduce Crime, reprinted in Would Gun Control Reduce Crime* 197 (David Bender ed., 1989); Robert S. Drinan, *Banning Handguns Would Reduce Crime, reprinted in GUNS & CRIME* 45–46 (Tarara Roleff ed., 1999).

22. MALCOLM, *supra* note 10, at 164–216. We should clarify that the twin trends toward more violent crime and more gun control began long before the 1990s. See *id.*

To conserve the resources of the inundated criminal justice system, English police no longer investigate burglary and “minor assaults.”²³ As of 2006, if the police catch a mugger, robber, or burglar, or other “minor” criminal in the act, the policy is to release them with a warning rather than to arrest and prosecute them.²⁴ It used to be that English police vehemently opposed the idea of armed policing. Today, ever more police are being armed. Justifying the assignment of armed squads to block roads and carry out random car searches, a police commander asserts: “It is a massive deterrent to gunmen if they think that there are going to be armed police.”²⁵ How far is that from the rationale on which 40 American states have enacted laws giving qualified, trained citizens the right to carry concealed guns? Indeed, news media editorials have appeared in England arguing that civilians should be allowed guns for defense.²⁶ There is currently a vigorous controversy over proposals (which the Blair government first endorsed but now opposes) to amend the law of self-defense to protect victims from prosecution for using deadly force against burglars.²⁷

The divergence between the United States and the British Commonwealth became especially pronounced during the

23. Daniel Foggo, *Don't Bother About Burglary, Police Told*, SUNDAY TELEGRAPH (LONDON), Jan. 12, 2003, at 1 (“Police have been ordered not to bother investigating crimes such as burglary, vandalism and assaults unless evidence pointing to the culprits is easily available, The Sunday Telegraph can reveal. Under new guidelines, officers have been informed that only “serious” crimes, such as murder, rape or so-called hate crimes, should be investigated as a matter of course. In all other cases, unless there is immediate and compelling evidence, such as fingerprints or DNA material, the crime will be listed for no further action.”).

24. Steve Doughty, *Let Burglars Off With Caution Police Told*, DAILY MAIL (London), Apr. 3, 2006, at 4.

25. Matthew Beard, *Armed Police to Man Checkpoints in London as Drug-Related Crime Soars*, INDEPENDENT (London), Sept. 7, 2002, at 2.

26. See Simon Heffer, *If the State Fails Us, We Must Defend Ourselves*, TELEGRAPH ONLINE (London), Feb. 24, 2002, <http://www.telegraph.co.uk/opinion/main.jhtml?xml=/opinion/2002/02/24/do2401.xml>; see also Ian Bell, *Dublanc Made Us All Think About Gun Control . . . So What Went Wrong?*, SUNDAY HERALD (Scotland), Feb. 24, 2007, http://www.sundayherald.com/oped/opinion/display.var.1217778.0.dublanc_made_us_all_think_about_gun_control_so_what_went_wrong.php; Comment, *The Night My Daughter Was Stabbed—And My Liberal Instincts Died*, DAILY MAIL (London), Mar. 5, 2007, http://www.dailymail.co.uk/pages/live/femail/article.html?in_article_id=440318&in_page_id=1766&ito=1490.

27. See Melissa Kite, *Tories Launch Bill to Give Household the Power to Tackle Intruders*, SUNDAY TELEGRAPH (London), Dec. 26, 2004, at 4; see also Renee Lerner, *The Worldwide Popular Revolt Against Proportionality in Self-Defense Law*, 2 J.L. ECON. & POL'Y (2007).

1980s and 1990s. During these two decades, while Britain and the Commonwealth were making lawful firearm ownership increasingly difficult, more than 25 states in the United States passed laws allowing responsible citizens to carry concealed handguns. There are now 40 states where qualified citizens can obtain such a handgun permit.²⁸ As a result, the number of U.S. citizens allowed to carry concealed handguns in shopping malls, on the street, and in their cars has grown to 3.5 million men and women.²⁹ Economists John Lott and David Mustard have suggested that these new laws contributed to the drop in homicide and violent crime rates. Based on 25 years of correlated statistics from all of the more than 3,000 American counties, Lott and Mustard conclude that adoption of these statutes has deterred criminals from confrontation crime and caused murder and violent crime to fall faster in states that adopted this policy than in states that did not.³⁰

28. In March 2006, Kansas and Nebraska became the 39th and 40th states, respectively, to pass "shall issue" concealed carry legislation. In Kansas, the state legislature voted to overturn the governor's veto of the bipartisan legislation. *Kansas House Overrides Concealed-Guns-Bill Veto*, DESERET MORNING NEWS, Mar. 24, 2006. In Nebraska, the governor signed the bill as passed by the state legislature. Kevin O'Hanlon, *Concealed-Weapons Bill Adopted*, LINCOLN JOURNAL STAR, Mar. 31, 2006.

29. Don Kates, *The Limited Importance of Gun Control from a Criminological Perspective*, in *SUING THE GUN INDUSTRY: A BATTLE AT THE CROSSROADS OF GUN CONTROL AND MASS TORTS* 62, 64 (Timothy D. Lytton ed., 2005).

30. See John R. Lott Jr. & David B. Mustard, *Crime, Deterrence, and Right-to-Carry Concealed Handguns*, 26 J. LEGAL STUD. 1, 1 (1997); see also JOHN R. LOTT, JR., *MORE GUNS, LESS CRIME* 19 (2d. ed. 2000). This conclusion is vehemently rejected by anti-gun advocates and academics who oppose armed self-defense. See, e.g., Albert W. Alschuler, *Two Guns, Four Guns, Six Guns, More Guns: Does Arming the Public Reduce Crime?*, 31 VAL. U. L. REV. 365, 366 (1997); Ian Ayres & John J. Donohue III, *Shooting Down the 'More Guns, Less Crime' Hypothesis*, 55 STAN. L. REV. 1193, 1197 (2003); Dan A. Black & Daniel S. Nagin, *Do Right-to-Carry Laws Deter Violent Crime?*, 27 J. LEGAL STUD. 209, 209 (1998); Franklin Zimring & Gordon Hawkins, *Concealed Handguns: The Counterfeit Deterrent*, RESPONSIVE COMMUNITY, Spring 1997, at 46; Daniel W. Webster, *The Claims That Right-to-Carry Laws Reduce Violent Crime Are Unsubstantiated* (Johns Hopkins Center for Gun Policy and Research, 1997).

Several critics have now replicated Lott's work using additional or different data, additional control variables, or new or different statistical techniques they deem superior to those Lott used. Interestingly, the replications all confirm Lott's general conclusions; some even find that Lott underestimated the crime-reductive effects of allowing good citizens to carry concealed guns. See Jeffrey A. Miron, *Violence, Guns, and Drugs: A Cross-Country Analysis*, 44 J.L. & ECON. 615 (2001); David B. Mustard, *The Impact of Gun Laws on Police Deaths*, 44 J.L. & ECON. 635 (2001); John R. Lott, Jr. & John E. Whitley, *Safe-Storage Gun Laws: Accidental Deaths, Suicides, and Crime*, 44 J.L. & ECON. 659 (2001); Thomas B. Marvell, *The Impact of Banning Juvenile Gun Possession*, 44 J.L. & ECON. 691 (2001); Jeffrey S. Parker, *Guns, Crime, and Academics: Some Reflections on the Gun Control Debate*, 44 J.L. & ECON. 715 (2001); Bruce L. Benson &

As indicated in the preceding footnote, the notion that more guns reduce crime is highly controversial. What the controversy has obscured from view is the corrosive effect of the Lott and Mustard work on the tenet that more guns equal more murder. As previously stated, adoption of state laws permitting millions of qualified citizens to carry guns has not resulted in more murder or violent crime in these states. Rather, adoption of these statutes has been followed by very significant reductions in murder and violence in these states.

To determine whether this expansion of gun availability caused reductions in violent crime requires taking account of various other factors that might also have contributed to the decline. For instance, two of Lott's major critics, Donohue and Levitt, attribute much of the drop in violent crime that started in 1990s to the legalization of abortion in the 1970s, which they argue resulted in the non-birth of vast numbers of children who would have been disproportionately involved in violent crime had they existed in the 1990s.³¹

The Lott-Mustard studies did not address the Donohue-Levitt thesis. Lott and Mustard did account, however, for two peculiarly American phenomena which many people believed may have been responsible for the 1990s crime reduction: the dramatic increase of the United States prison population and the number of executions. The prison population in the United States tripled during this time period, jumping from approximately 100 prisoners per 100,000 in the late 1970s to more than 300 per 100,000 people in the general population in the early 1990s.³² In addition, executions in the United States soared

Brent D. Mast, *Privately Produced General Deterrence*, 44 J.L. & ECON. 725 (2001); David E. Olson & Michael D. Maltz, *Right-to-Carry Concealed Weapon Laws and Homicide in Large U.S. Counties: The Effect on Weapon Types, Victim Characteristics, and Victim-Offender Relationships*, 44 J.L. & ECON. 747 (2001); Florenz Plassmann & T. Nicolaus Tideman, *Does the Right to Carry Concealed Handguns Deter Countable Crimes? Only a Count Analysis Can Say*, 44 J.L. & ECON. 771 (2001); Carlisle E. Moody, *Testing for the Effects of Concealed Weapons Laws: Specification Errors and Robustness*, 44 J.L. & ECON. 799 (2001); see also Florenz Plassman & John Whitley, *Confirming 'More Guns, Less Crime'*, 55 STAN. L. REV. 1313, 1316 (2003). In 2003, Lott reiterated and extended his findings, which were subsequently endorsed by three Nobel laureates. See JOHN R. LOTT, JR., *THE BIAS AGAINST GUNS* (2003).

31. See John J. Donohue III & Steven D. Levitt, *The Impact of Legalized Abortion on Crime*, 116 Q. J. ECON. 379 (2001).

32. See Bureau of Justice Statistics, *Key Facts at a Glance: Incarceration Rate, 1980-2004* (Oct. 23, 2005), <http://www.ojp.usdoj.gov/bjs/glance/tables/incrrtab.htm>, citing ALLEN BECK & PAIGE HARRISON, BUREAU OF JUSTICE STATISTICS, *CORRECTIONAL POPULATIONS IN THE UNITED STATES 1997* (2000), available at

from approximately 5 per year in the early 1980s to more than 27 per year in the early 1990s.³³ Neither of these trends is reflected in Commonwealth countries.

Although the reason is thus obscured, the undeniable result is that violent crime, and homicide in particular, has plummeted in the United States over the past 15 years.³⁴ The fall in the American crime rate is even more impressive when compared with the rest of the world. In 18 of the 25 countries surveyed by the British Home Office, violent crime increased during the 1990s.³⁵ This contrast should induce thoughtful people to wonder what happened in those nations, and to question policies based on the notion that introducing increasingly more restrictive firearm ownership laws reduces violent crime. Perhaps the United States is doing something right in promoting firearms for law-abiding responsible adults. Or perhaps the United States' success in lowering its violent crime rate relates to increasing its prison population or its death sentences.³⁶ Further research is required to identify more precisely which elements of the United States' approach are the most important, or whether all three elements acting in concert were necessary to reduce violent crimes.

I. VIOLENCE: THE DECISIVENESS OF SOCIAL FACTORS

One reason the extent of gun ownership in a society does not spur the murder rate is that murderers are not spread evenly throughout the population. Analysis of perpetrator studies shows that violent criminals—especially murderers—“almost

<http://www.ojp.usdoj.gov/bjs/pub/pdf/cpus97.pdf>, and ALLEN BECK & PAIGE HARRISON, BUREAU OF JUSTICE STATISTICS, PRISONERS IN 2004 (2005), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/p04.pdf>).

33. THOMAS BONCZAR & TRACY L. SNELL, BUREAU OF JUSTICE STATISTICS BULLETIN, CAPITAL PUNISHMENT 2003, (2004), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/cp03.pdf>.

34. See generally FBI, VIOLENT CRIME, http://www.fbi.gov/ucr/05cius/offenses/violent_crime/index.html; FBI, CRIME IN THE UNITED STATES BY VOLUME AND RATE PER 100,000 INHABITANTS, 1986–2005, http://www.fbi.gov/ucr/05cius/data/table_01.html.

35. See Gordon Barclay et al., *International Comparisons of Criminal Justice Statistics 1999*, HOME OFFICE STAT. BULL. (Research Development and Statistics, U.K. Home Office, London, U.K.), 2001, available at <http://www.homeoffice.gov.uk/rds/pdfs/hosb601.pdf>.

36. Several recent studies by economists calculate that each execution deters the commission of 19 murders. See Cass R. Sunstein & Adrian Vermuele, *Is Capital Punishment Morally Required? Acts, Omissions, and Life-Life Tradeoffs*, 58 STAN. L. REV. 703 (2005).

uniformly have a long history of involvement in criminal behavior."³⁷ So it would not appreciably raise violence if all law-abiding, responsible people had firearms because they are not the ones who rape, rob, or murder.³⁸ By the same token, violent crime would not fall if guns were totally banned to civilians. As the respective examples of Luxembourg and Russia suggest,³⁹ individuals who commit violent crimes will either find guns despite severe controls or will find other weapons to use.⁴⁰

Startling as the foregoing may seem, it represents the cross-national norm, not some bizarre departure from it. If the mantra "more guns equal more death and fewer guns equal less death" were true, broad based cross-national comparisons should show that nations with higher gun ownership per capita consistently have more death. Nations with higher gun ownership rates, however, do not have higher murder or suicide rates than those with lower gun ownership. Indeed many high gun ownership nations have much lower murder rates. Consider, for example, the wide divergence in murder rates among Continental European nations with widely divergent gun ownership rates.

The non-correlation between gun ownership and murder is reinforced by examination of statistics from larger numbers of nations across the developed world. Comparison of "homicide and suicide mortality data for thirty-six nations (including the United States) for the period 1990–1995" to gun ownership levels showed "no significant (at the 5% level) association between gun ownership levels and the total homicide rate."⁴¹ Consistent with this is a later European study of data from 21 nations in which "no significant correlations [of gun ownership levels] with total suicide or homicide rates were found."⁴²

37. See Delbert S. Elliott, *Life-Threatening Violence is Primarily a Crime Problem: A Focus on Prevention*, 69 COLO. L. REV. 1081, 1089 (1998) (emphasis added).

38. See *infra* Part III.

39. See *supra* notes 3–9 and Table 1.

40. See *supra* Table 1 and *infra* Tables 2–3.

41. KLECK, *supra* note 8, at 254. The study also found no correlation to suicide rates. *Id.*

42. Martin Killias et al., *Guns, Violent Crime, and Suicide in 21 Countries*, 43 CAN. J. CRIMINOLOGY & CRIM. JUST. 429, 430 (2001). It bears emphasis that the authors, who are deeply anti-gun, emphasize the "very strong correlations between the presence of guns in the home and *suicide committed with a gun*" — as if there were some import

II. ASKING THE WRONG QUESTION

However unintentionally, the irrelevance of focusing on weaponry is highlighted by the most common theme in the more guns equal more death argument. Epitomizing this theme is a World Health Organization (WHO) report asserting, "The easy availability of firearms has been associated with higher *firearm* mortality rates."⁴³ The authors, in noting that the presence of a gun in a home corresponds to a higher risk of suicide, apparently assume that if denied firearms, potential suicides will decide to live rather than turning to the numerous alternative suicide mechanisms. The evidence, however, indicates that denying one particular means to people who are motivated to commit suicide by social, economic, cultural, or other circumstances simply pushes them to some other means.⁴⁴ Thus, it is not just the murder rate in gun-less Russia that is four times higher than the American rate; the Russian suicide rate is also about four times higher than the American rate.⁴⁵

to the death being by gun rather than by hanging, poison, or some other means. *Id.*; see also *infra* Part III.

43. WORLD HEALTH ORGANIZATION, SMALL ARMS AND GLOBAL HEALTH 11 (2001) (emphasis added). This irrelevancy is endlessly repeated. See, e.g., Wendy Cukier, *Small Arms and Light Weapons: A Public Health Approach*, 9 BROWN J. WORLD AFF. 261, 266, 267 (2002) ("Research has shown that rates of *small arms* death and injury are linked to small arms accessibility . . . In industrialized countries, studies have shown that accessibility is related to *firearm* death rates . . . Other approaches have examined the rates of death from *firearms* across regions, cities, high income countries, and respondents to victimization surveys." (emphasis added) (internal citations omitted); see also Neil Arya, *Confronting the Small Arms Pandemic* 324 BRITISH MED. J. 990 (2002); E.G. Krug et al., *Firearm-Related Deaths in the United States and 35 Other High and Upper-Middle-Income Countries*, 27 INT'L J. EPIDEMIOLOGY 214 (1988).

44. See JACOBS, *supra* note 11, at 120 ("[I]f the Brady Law did have the effect of modestly reducing firearms suicides . . . this effect was completely offset by an increase of the same magnitude in nonfirearm suicide" resulting in the same number of deaths); see also KLECK, *supra* note 8, at 265-92 (summarizing and reviewing studies regarding guns and suicide). Indeed, though without noting the significance, the WHO report states that out of sample of 52 countries, "firearms accounted for only one-fifth of all suicides, just ahead of poisoning . . . [Self-] strangulation, [i.e. hanging] was the most frequently used method of suicide." WORLD HEALTH ORGANIZATION, *supra* note 43, at 3.

45. In 1999, the latest year for which we have Russian data, the American suicide rate was 10.7 per 100,000 people, while the Russian suicide rate was almost 41 per 100,000 people. William Alex Pridemore & Andrew L. Spivak, *Patterns of Suicide Mortality in Russia*, 33 SUICIDE & LIFE-THREATENING BEHAVIOR 132, 133 (2003); Donna L. Hoyert et al., *Deaths: Final Data for 1999*, NAT'L VITAL STAT. REP., Sept. 21, 2001, at 6.

There is no social benefit in decreasing the availability of guns if the result is only to increase the use of other means of suicide and murder, resulting in more or less the same amount of death. Elementary as this point is, proponents of the more guns equal more death mantra seem oblivious to it. One study asserts that Americans are more likely to be shot to death than people in the world's other 35 wealthier nations.⁴⁶ While this is literally true, it is irrelevant—except, perhaps to people terrified not of death per se but just death by gunshot. A fact that should be of greater concern—but which the study fails to mention—is that per capita murder *overall* is only half as frequent in the United States as in several other nations where *gun* murder is rarer, but murder by strangling, stabbing, or beating is much more frequent.⁴⁷

Of course, it may be speculated that murder rates around the world would be higher if guns were more available. But there is simply no evidence to support this. Like any speculation, it is not subject to conclusive disproof; but the European data in Table 1 and the studies across 36 and 21 nations already discussed show no correlation of high gun ownership nations and greater murder per capita or lower gun ownership nations and less murder per capita.⁴⁸

To reiterate, the determinants of murder and suicide are basic social, economic, and cultural factors, not the prevalence of some form of deadly mechanism. In this connection, recall that the American jurisdictions which have the highest violent crime rates are precisely those with the most stringent gun controls.⁴⁹ This correlation does not necessarily

46. See Krug et al., *supra* note 42, at 218–19.

47. *Id.* at 216. Two of those nations, Brazil and Estonia, had more than twice the overall murder rates of the United States. David C. Stolinsky, *America: The Most Violent Nation?*, 5 MED. SENTINEL 199, 200 (2000). Readers may question the value of comparing the United States to those particular nations; however, this comparison was first suggested by Krug. Krug et al., *supra* note 43, at 215 (using thirty-six countries, having among the highest GNP per capita as listed in the World Bank's 1994 World Development Report). All we have done is provide full murder rate information for these comparisons.

48. KLECK, *supra* note 8, at 254; Killias et al., *supra* note 41, at 430.

49. See *infra* notes 128–30 and accompanying text. For at least thirty years, gun advocates have echoed in more or less identical terms the observation that twenty percent of American homicide is concentrated in four cities with the nation's most restrictive gun laws. See *Firearms Legislation: Hearing Before the Subcomm. on Crime of the H. Comm. on the Judiciary*, 94th Cong. 2394 (1975) (statement of Neal Knox). In October 2000, the head of a gun advocacy group ridiculed a Handgun Control

prove gun advocates' assertion that gun controls actually encourage crime by depriving victims of the means of self-defense. The explanation of this correlation may be political rather than criminological: jurisdictions afflicted with violent crime tend to severely restrict gun ownership. This, however, does not suppress the crime, for banning guns cannot alleviate the socio-cultural and economic factors that are the real determinants of violence and crime rates.⁵⁰

Table 2: Murder Rates of European Nations that Ban Handguns as Compared to Their Neighbors that Allow Handguns
(rates are per 100,000 persons)

Nation	Handgun Policy	Murder Rate	Year
A. Belarus	banned	10.40	late 1990s
[Neighboring countries with gun law and murder rate data available]			
Poland	allowed	1.98	2003
Russia	banned	20.54	2002
B. Luxembourg	banned	9.01	2002
[Neighboring countries with gun law and murder rate data available]			
Belgium	allowed	1.70	late 1990s
France	allowed	1.65	2003
Germany	allowed	0.93	2003
C. Russia	banned	20.54	2002
[Neighboring countries with gun law and murder rate data available]			
Finland	allowed	1.98	2004
Norway	allowed	0.81	2001

Notes: This table covers all the European nations for which the information given is available. As in Table 1, the homicide rate data comes from an annually published report, CANADIAN CENTRE FOR JUSTICE STATISTICS, HOMICIDE IN CANADA, JURISTAT.

Once again, we are not arguing that the data in Table 2 shows that gun control *causes* nations to have much higher

"scorecard" for its misleading attempts to inversely correlate violent crime rates to the extent of the various states' gun controls. He points out that, in fact, the states with the most restrictive gun laws consistently have higher murder rates than states with less restrictive laws, while those with the least controls had the lowest homicide rates. Larry Pratt, HCI Scorecard (2000), <http://gunowners.org/op0042.htm>; see also *infra* note 131.

50. It is noteworthy that the correlation between more gun control and more crime seems to hold true in other nations, though much less strikingly than in the United States. See Miron, *supra* note 30, at 628.

murder rates than neighboring nations that permit handgun ownership. Rather, we assert a political causation for the observed correlation that nations with stringent gun controls tend to have much higher murder rates than nations that allow guns. The political causation is that nations which have violence problems tend to adopt severe gun controls, but these do not reduce violence, which is determined by basic socio-cultural and economic factors.

The point is exemplified by the conclusions of the premier study of English gun control. Done by a senior English police official as his thesis at the Cambridge University Institute of Criminology and later published as a book, it found (as of the early 1970s), "Half a century of strict controls . . . has ended, perversely, with a far greater use of [handguns] in crime than ever before."⁵¹ The study also states that:

No matter how one approaches the figures, one is forced to the rather startling conclusion that the use of firearms in crime was very much less [in England before 1920] when there were no controls of any sort and when anyone, convicted criminal or lunatic, could buy any type of firearm without restriction.⁵²

Of course the point of this analysis is not that the law should allow lunatics and criminals to own guns. The point is that violence will be rare when the basic socio-cultural and economic determinants so dictate; and conversely, crime will rise in response to changes in those determinants—without much regard to the mere availability of some particular weaponry or the severity of laws against it.

III. DO ORDINARY PEOPLE MURDER?

The "more guns equal more death" mantra seems plausible only when viewed through the rubric that murders mostly involve ordinary people who kill because they have access to a firearm when they get angry. If this were true, murder might well increase where people have ready access to firearms, but the available data provides no such correlation. Nations and

51. COLIN GREENWOOD, *FIREARMS CONTROL: A STUDY OF ARMED CRIME AND FIREARMS CONTROL IN ENGLAND AND WALES* 243 (1972).

52. *Id.*

areas with more guns per capita do not have higher murder rates than those with fewer guns per capita.⁵³

Nevertheless, critics of gun ownership often argue that a “gun in the closet to protect against burglars will most likely be used to shoot a spouse in a moment of rage *The problem is you and me—law-abiding folks;*”⁵⁴ that banning handgun possession only for those with criminal records will “fail to protect us from the most likely source of handgun murder: ordinary citizens;”⁵⁵ that “most gun-related homicides . . . are the result of impulsive actions taken by individuals *who have little or no criminal background* or who are known to the victims;”⁵⁶ that “the majority of firearm homicide[s occur] . . . not as the result of criminal activity, but because of arguments between people who know each other;”⁵⁷ that each year there are thousands of gun murders “by law-abiding citizens who might have *stayed* law-abiding if they had not possessed firearms.”⁵⁸

These comments appear to rest on no evidence and actually contradict facts that have so uniformly been established by homicide studies dating back to the 1890s that they have become “criminological axioms.”⁵⁹ Insofar as studies focus on perpetrators, they show that neither a majority, nor many, nor virtually any murderers are ordinary “law-abiding citizens.”⁶⁰ Rather, almost all murderers are extremely aberrant individuals with life histories of violence, psychopathology, substance abuse, and other dangerous behaviors. “The vast majority of persons involved in life-threatening violence have a long criminal record with many prior contacts with the justice system.”⁶¹ “Thus homicide—[whether] of a

53. See *supra* Tables 1–2 and notes 10–15; see *infra* Table 3 and notes 125–127.

54. David Kairys, *A Carnage in the Name of Freedom*, PHILADELPHIA INQUIRER, Sept. 12, 1988, at A15 (emphasis added), quoted in Frank J. Vandall, *A Preliminary Consideration of Issues Raised in the Firearms Sellers Immunity Bill*, 38 AKRON L. REV. 113, 118 n.28 (2005).

55. Nicholas Dixon, *Why We Should Ban Handguns in the United States*, 12 ST. LOUIS U. PUB. L. REV. 243, 265–66 (1993) (emphasis added), quoted in Vandall, *supra* note 54, at 119, n.32.

56. ROBERT J. SPITZER, *THE POLITICS OF GUN CONTROL* 147 (3rd ed. 1995) (emphasis added).

57. Violence Policy Center, *Who Dies? A Look at Firearms Death and Injury in America*, <http://www.vpc.org/studies/whointro.htm> (last visited Nov. 17, 2006).

58. Natl Coalition to Ban Handguns, *supra* note 21 (emphasis added).

59. See David M. Kennedy & Anthony J. Braga, *Homicide in Minneapolis: Research for Problem Solving*, 2 HOMICIDE STUD. 263, 267 (1998).

60. See Elliott, *supra* note 37, at 1093.

61. *Id.*

stranger or [of] someone known to the offender—'is usually part of a pattern of violence, engaged in by people who are known . . . as violence prone.'"⁶² Though only 15% of Americans over the age of 15 have arrest records,⁶³ approximately 90 percent of "adult murderers have *adult* records, with an average adult criminal career [involving crimes committed as an adult rather than a child] of six or more years, including four major *adult* felony arrests."⁶⁴ These national statistics dovetail with data from local nineteenth and twentieth century studies. For example: victims as well as offenders [in 1950s and 1960s Philadelphia murders] . . . tended to be people with prior police records, usually for violent crimes such as assault."⁶⁵ "The great majority of both perpetrators and victims of [1970s Harlem] assaults and murders had previous [adult] arrests, probably over 80% or more."⁶⁶ Boston police and probation officers in the 1990s agreed that of those juvenile-perpetrated murders where all the facts were known, virtually all were committed by gang members, though the killing was not necessarily gang-directed.⁶⁷ One example would be a gang member who stabs his girlfriend to death in a fit of anger.⁶⁸ Regardless of their arrests for other crimes, 80% of 1997 Atlanta murder arrestees had at least one earlier drug offense with 70% having 3 or more prior drug offenses.⁶⁹ A *New York Times* study of the 1,662 murders committed in that city in the years 2003–2005 found that "[m]ore than 90 percent of the killers had criminal records."⁷⁰ Baltimore police figures show that "92 percent of murder suspects had [prior] criminal records in 2006."⁷¹ Several of the more recent homicide studies just reviewed

62. GERALD D. ROBIN, *VIOLENT CRIME AND GUN CONTROL* 48 (1991) (quoting Gary Kleck, *The Assumptions of Gun Control*, in *FIREARMS AND VIOLENCE* 23, 43 (Don B. Kates ed., 1984)).

63. Mark Cooney, *The Decline of Elite Homicide*, 35 *CRIMINOLOGY* 381, 386 (1997).

64. GARY KLECK & DON B. KATES, *ARMED: NEW PERSPECTIVES ON GUN CONTROL* 20 (2001).

65. ROGER LANE, *MURDER IN AMERICA: A HISTORY* 259 (1997).

66. A. SWERSKEY & E. ENLOE, *HOMICIDE IN HARLEM* 17 (1975).

67. Anthony A. Braga et al., *Youth Homicide in Boston: An Assessment of Supplementary Homicide Report Data*, 3 *HOMICIDE STUDIES* 277, 283–84 (1999).

68. *See id.*

69. Dean G. Rojek, *The Homicide and Drug Connection*, in *THE VARIETIES OF HOMICIDE AND ITS RESEARCH: PROCEEDINGS OF THE 1999 MEETING OF THE HOMICIDE RESEARCH WORKING GROUP* 128 (P.H. Blackman et al. eds., 2000) [hereinafter *THE VARIETIES OF HOMICIDE*].

70. Jo Craven McGinty, *New York Killers, and Those Killed, by the Numbers*, *N.Y. TIMES*, April 28, 2006, at A1.

71. Gus G. Sentementes, *Patterns Persist in City Killings*, *BALTIMORE SUN*, Jan. 1, 2007, at A1.

were done at the Kennedy School of Government at Harvard and found almost all arrested murderers to have earlier arrests.⁷²

That murderers are not ordinary, law-abiding responsible adults is further documented in other sources. Psychological studies of juvenile murderers variously find that at least 80%, if not all, are psychotic or have psychotic symptoms.⁷³ Of Massachusetts domestic murderers in the years 1991–1995, 73.7% had a “prior [adult] criminal history,” 16.5% had an active restraining order registered against them at the time of the homicide, and 46.3% of the violent perpetrators had had a restraining order taken out against them sometime before their crime.⁷⁴

This last study is one of many exposing the false argument that a significant number of murders involve ordinary people killing spouses in a moment of rage. Although there are many domestic homicides, such murders do not occur frequently in ordinary families, nor are the murderers ordinary, law-abiding adults. “The day-to-day reality is that most family murders are prefaced by a long history of assaults.”⁷⁵ One study of such murders found that “a history of domestic violence was present in 95.8%” of cases.⁷⁶ These findings are a routine feature of domestic homicide studies: “[domestic] partner homicide is most often the final outcome of chronic women battering”;⁷⁷ based on a study from Kansas City, 90% of all the family homi-

72. Anthony A. Braga et al., *Understanding and Preventing Gang Violence: Problem Analysis and Response Development in Lowell, Massachusetts*, 9 POLICE Q. 20, 29–31 (2006) (“Some 95% of homicide offenders, 82% of aggravated assault offenders, 65% of homicide victims, and 45% of aggravated gun assault victims were arraigned at least once in Massachusetts courts before they committed their crime or were victimized. Individuals that were previously known to the criminal justice system were involved in a wide variety of offenses and, on average, committed many prior crimes On average, aggravated gun assault offenders had been arraigned for 12 prior offenses, homicide offenders had been arraigned for 9 prior offenses . . .”).

73. Wade C. Myers & Kerrilyn Scott, *Psychotic and Conduct Disorder Symptoms in Juvenile Murderers*, 2 HOMICIDE STUD. 160, 161–62 (1998).

74. Linda Langford et al., *Criminal and Restraining Order Histories of Intimate Partner-Related Homicide Offenders in Massachusetts, 1991-1995*, in THE VARIETIES OF HOMICIDE, supra note 69, at 51, 55, 59.

75. Murray A. Straus, *Domestic Violence and Homicide Antecedents*, 62 BULL. N.Y. ACAD. MED. 446, 454 (1986); see also Murray A. Straus, *Medical Care Costs of Intrafamily Assault and Homicide*, 62 BULL. N.Y. ACAD. MED. 556, 557 (1986).

76. Paige Hall Smith et al., *Partner Homicide in Context*, 2 HOMICIDE STUD. 400, 410 (1998) (reporting cases only where there was sufficient background information on the parties).

77. *Id.* at 411.

cides were preceded by previous disturbances at the same address, with a median of 5 calls per address."⁷⁸

The only kind of evidence cited to support the myth that most murderers are ordinary people is that many murders arise from arguments or occur in homes and between acquaintances.⁷⁹ These bare facts are only relevant if one assumes that criminals do not have acquaintances or homes or arguments. Of the many studies belying this, the broadest analyzed a year's national data on gun murders occurring in homes and between acquaintances. It found "the most common victim-offender relationship" was "where both parties . . . knew one another because of prior illegal transactions."⁸⁰

Thus the term "acquaintance homicide" does not refer solely to murders between ordinary acquaintances. Rather it encompasses, for example: drug dealers killed by competitors or customers, gang members killed by members of the same or rival gangs, and women killed by stalkers or abusers who have brutalized them on earlier occasions, all individuals for whom federal and state laws already prohibit gun possession.⁸¹

Obviously there are certain people who should not be allowed to own any deadly instrument. Reasonable as such prohibitions are, it is unrealistic to think those people will comply with such restrictions any more readily than they do with laws against violent crime.⁸² In any event, studies analyzing ac-

78. ROBIN, *supra* note 62, at 47–48; *see also* Kathryn E. Moracco et al., *Femicide in North Carolina, 1991-1993*, 2 HOMICIDE STUD. 422, 441 (1998).

79. *See, e.g.*, SPITZER, *supra* note 56; Jeremiah A. Barondess, Letter to the Editor, *Firearm Violence and Public Health*, 272 J. AM. MED. ASS'N 1406, 1409 (1994) (responding to criticism of his article, Karl P. Adler et al., *Firearm Violence and Public Health: Limiting the Availability of Guns*, 271 J. AM. MED. ASS'N 1281 (1994)); Kairys, *supra* note 54.

80. KLECK, *supra* note 8, at 236 (analyzing the U.S. Bureau of Justice Statistics data on murder defendants being prosecuted in 33 U.S. urban counties).

81. Current federal law prohibits gun possession by minors, drug addicts, and persons who have been involuntarily committed to mental institutions or convicted of felonies or domestic violence misdemeanors. 18 U.S.C. § 922(g) (2000). As to state gun laws, *see, for example*, CAL. PENAL CODE §§ 12021, 12072, 12101, 12551 (Deering 2006). For a summary of the general patterns of federal and state gun laws, *see* JACOBS, *supra* note 11, at 19–35.

82. *See* WRIGHT ET AL., *supra* note 11, at 137–38 ("[T]here is no good reason to suppose that people intent on arming themselves for criminal purposes would not be able to do so even if the general availability of firearms to the larger population were sharply restricted. Here it may be appropriate to recall the First Law of Economics, a law whose operation has been sharply in evidence in the case of Prohibition, marijuana and other drugs, prostitution, pornography, and a host of other banned arti-

quaintance homicide suggest there is no reason for laws prohibiting gun possession by ordinary, law-abiding responsible adults because such people virtually never murder. If one accepts that such adults are far more likely to be victims of violent crime than to commit it, disarming them becomes not just unproductive but counter-productive.⁸³

IV. MORE GUNS, LESS CRIME?

Anti-gun activists are not alone in their belief that widespread firearm ownership substantially affects violent crime rates. The same understanding also characterizes many pro-gun activists. Of course, pro-gun activists' belief leads them to the opposite conclusion: that widespread firearm ownership reduces violence by deterring criminals from confrontation crimes and making more attractive such nonconfrontation crimes as theft from unoccupied commercial or residential premises. Superficially, the evidence for this belief seems persuasive. Table 1, for instance, shows that Denmark has roughly half the gun ownership rate of Norway, but a 50% higher murder rate, while Russia has only one-ninth Norway's

cles and substances—namely, that demand creates its own supply. There is no evidence anywhere to show that reducing the availability of firearms *in general* likewise reduces their availability to persons with criminal intent, or that persons with criminal intent would not be able to arm themselves under any set of general restrictions on firearms.”).

83. This Article will not discuss the defensive use of firearms beyond making the following observations: while there is a great deal of controversy about the subject, it is a misleading controversy in which anti-gun advocates' deep ethical or moral objections to civilian self-defense are presented in the guise of empirical argument. The empirical evidence unquestionably establishes that gun ownership by prospective victims not only allows them to resist criminal attack, but also deters violent criminals from attacking them in the first place. See JOSEPH F. SHELEY & JAMES D. WRIGHT, *IN THE LINE OF FIRE: YOUTHS, GUNS, AND VIOLENCE IN URBAN AMERICA* 63 (1995), and JAMES D. WRIGHT & PETER H. ROSSI, *ARMED AND CONSIDERED DANGEROUS: A SURVEY OF FELONS AND THEIR FIREARMS* 154 (1986) for a discussion of Dept. of Justice-funded surveys of incarcerated adult and juvenile felons. See also LOTT, *THE BIAS AGAINST GUNS*, *supra* note 30, at 8–11, 227–40; David B. Kopel, *Lawyers, Guns, and Burglars*, 43 ARIZ. L. REV. 345 (2001); Lawrence Southwick, Jr., *Self-Defense with Guns: The Consequences*, 28 J. CRIM. JUST. 351 (2000).

The legitimate question is not *whether* victim gun possession allows for self-defense and deters criminal violence, but how extensive and important these benefits are. See KLECK & KATES, *supra* note 64, at 213–342; LOTT, *supra* note 11; Philip J. Cook & Jens Ludwig, *Defensive Gun Uses: New Evidence from a National Survey*, 14 J. QUANTITATIVE CRIMINOLOGY 111 (1998); Philip J. Cook & Jens Ludwig, *Guns in America: National Survey on Private Ownership and Use of Firearms*, Nat'l Inst. Just.: Research in Brief (U.S. Dep't of Justice, Washington, D.C., 1997); Marvin E. Wolfgang, *A Tribute to a View I Have Opposed*, 86 J. CRIM. L. & CRIMINOLOGY 188 (1995).

gun ownership rate but a murder rate 2500% higher. Looking at Tables 1–3, it is easy to find nations in which very high gun ownership rates correlate with very low murder rates, while other nations with very low gun ownership rates have much higher murder rates. Moreover, there is not insubstantial evidence that *in the United States* widespread gun availability has helped reduce murder and other violent crime rates. On closer analysis, however, this evidence appears uniquely applicable to the United States.

More than 100 million handguns are owned in the United States⁸⁴ primarily for self-defense,⁸⁵ and 3.5 million people have permits to carry concealed handguns for protection.⁸⁶ Recent analysis reveals “a great deal of self-defensive use of firearms” in the United States, “in fact, more defensive gun uses [by victims] than crimes committed with firearms.”⁸⁷ It is little wonder that the

National Institute of Justice surveys among prison inmates find that large percentages report that their fear that a victim might be armed deterred them from confrontation crimes. “[T]he felons most frightened ‘about confronting an armed victim’ were those from states with the greatest relative number of privately owned firearms.” Conversely, robbery is highest in states that most restrict gun ownership.⁸⁸

Concomitantly, a series of studies by John Lott and his coauthor David Mustard conclude that the issuance of millions of permits to carry concealed handguns is associated with drastic declines in American homicide rates.⁸⁹

Ironically, to detail the American evidence for widespread defensive gun ownership’s deterrent value is also to raise questions about how applicable that evidence would be even to the other nations that have widespread gun ownership but low violence. There are no data for foreign nations comparable to the American data just discussed. Without such data, we cannot know whether millions of Norwegians own handguns and carry them for protec-

84. Kates, *supra* note 29, at 63.

85. KLECK, *supra* note 8, at 74 (collecting survey responses).

86. Kates, *supra* note 29, at 64.

87. JACOBS, *supra* note 11, at 14 (collecting studies).

88. Kates, *supra* note 29, at 70 (collecting studies).

89. LOTT, *supra* note 11; John R. Lott & David B. Mustard, *Crime, Deterrence, and Right-to-Carry*, 26 J. LEGAL STUD. 1 (1997); David B. Mustard, *Culture Affects Our Beliefs About Firearms, But Data are Also Important*, 151 U. PENN. L. REV. 1387 (2003). These studies are highly controversial. See Kates, *supra* note 29, at 70–71, for discussion of critics and criticisms.

tion, thereby deterring Norwegian criminals from committing violent crimes. Nor can we know whether guns are commonly kept for defense in German homes and stores, thus preventing German criminals from robbing them.

Moreover, if the deterrent effect of gun ownership accounts for low violence rates in high gun ownership nations other than the United States, one wonders why that deterrent effect would be amplified there. Even with the drop in United States murder rates that Lott and Mustard attribute to the massive increase in gun carry licensing, the United States murder rate is still eight times higher than Norway's—even though the U.S. has an almost 300% higher rate of gun ownership. That is consistent with the points made above. Murder rates are determined by socio-economic and cultural factors. In the United States, those factors include that the number of civilian-owned guns nearly equals the population—triple the ownership rate in even the highest European gun-ownership nations—and that vast numbers of guns are kept for personal defense. That is not a factor in other nations with comparatively high firearm ownership. High gun ownership may well be a factor in the recent drastic decline in American homicide. But even so, American homicide is driven by socio-economic and cultural factors that keep it far higher than the comparable rate of homicide in most European nations.

In sum, though many nations with widespread gun ownership have much lower murder rates than nations that severely restrict gun ownership, it would be simplistic to assume that at all times and in all places widespread gun ownership depresses violence by deterring many criminals into nonconfrontation crime. There is evidence that it does so in the United States, where defensive gun ownership is a substantial socio-cultural phenomenon. But the more plausible explanation for many nations having widespread gun ownership with low violence is that these nations never had high murder and violence rates and so never had occasion to enact severe anti-gun laws. On the other hand, in nations that have experienced high and rising violent crime rates, the legislative reaction has generally been to enact increasingly severe antigun laws. This is futile, for reducing gun ownership by the law-abiding citizenry—the only ones who obey gun laws—does not reduce violence or murder. The result is that high crime nations that ban guns to reduce crime end up having both high crime and stringent gun laws, while it appears that low crime nations that do not significantly restrict guns continue to have low violence rates.

Thus both sides of the gun prohibition debate are likely wrong in viewing the availability of guns as a major factor in the incidence of murder in any particular society. Though many people may still cling to that belief, the historical, geographic, and demographic evidence explored in this Article provides a clear admonishment. Whether gun availability is viewed as a cause or as a mere coincidence, the long term macrocosmic evidence is that gun ownership spread widely throughout societies consistently correlates with stable or declining murder rates. Whether causative or not, the consistent international pattern is that more guns equal *less* murder and other violent crime. Even if one is inclined to think that gun availability is an important factor, the available international data cannot be squared with the mantra that more guns equal more death and fewer guns equal less death. Rather, if firearms availability does matter, the data consistently show that the way it matters is that more guns equal *less* violent crime.

V. GEOGRAPHIC, HISTORICAL AND DEMOGRAPHIC PATTERNS

If more guns equal more death and fewer guns equal less death, it should follow, all things being equal, (1) that geographic areas with higher gun ownership should have more murder than those with less gun ownership; (2) that demographic groups with higher gun ownership should be more prone to murder than those with less ownership; and (3) that historical eras in which gun ownership is widespread should have more murder than those in which guns were fewer or less widespread. As discussed earlier, these effects are not present. Historical eras, demographic groups, and geographic areas with more guns do not have more murders than those with fewer guns. Indeed, those with more guns often, or even generally, have fewer murders.

Of course, all other things may not be equal. Obviously, many factors other than guns may promote or reduce the number of murders in any given place or time or among particular groups. And it may be impossible even to identify these factors, much less to take account of them all. Thus any conclusions drawn from the kinds of evidence presented earlier in this paper must necessarily be tentative.

Acknowledging this does not, however, blunt the force of two crucial points. The first regards the burden of proof. Those who assert the mantra, and urge that public policy be based on it, bear the burden of proving that more guns do equal more death and fewer guns equal less death. But they cannot bear that burden because there simply is no large number of cases in which the widespread prevalence of guns among the general population has led to more murder. By the same token, but even more importantly, it cannot be shown consistently that a reduction in the number of guns available to the general population has led to fewer deaths. Nor is the burden borne by *speculating* that the reason such cases do not appear is that other factors always intervene.

The second issue, allied to the burden of proof, regards plausibility. On their face, the following facts from Tables 1 and 2 suggest that gun ownership is irrelevant, or has little relevance, to murder: France and neighboring Germany have exactly the same, comparatively high rate of gun ownership, yet the French murder rate is nearly twice the German; France has infinitely more gun ownership than Luxembourg, which nevertheless has a murder rate five times greater, though handguns are illegal and other types of guns sparse; Germany has almost double the gun ownership rate of neighboring Austria yet a similarly very low murder rate; the Norwegian gun ownership rate is over twice the Austrian rate, yet the murder rates are almost identical.

And then there is Table 3, which shows Slovenia, with 66% more gun ownership than Slovakia, nevertheless has roughly one-third less murder per capita; Hungary has more than 6 times the gun ownership rate of neighboring Romania but a lower murder rate; the Czech Republic's gun ownership rate is more than 3 times that of neighboring Poland, but its murder rate is lower; Poland and neighboring Slovenia have exactly the same murder rate, though Slovenia has over triple the gun ownership per capita.

Table 3: *Eastern Europe Gun Ownership and Murder Rates*
(rates given are per 100,000 people and in descending order)

Nation	Murder Rate	Rate of Gun Ownership
Russia	20.54* [2002]	4,000
Moldova	8.13** [2000]	1,000
Slovakia	2.65** [2000]	3,000
Romania	2.50** [2000]	300
Macedonia	2.31** [2000]	16,000
Hungary	2.22† [2003]	2,000
Finland	1.98‡ [2004]	39,000
Poland	1.79† [2003]	1,500
Slovenia	1.81** [2000]	5,000
Cz. Republic	1.69** [2000]	5,000
Greece	1.12† [2003]	11,000

Notes: This table covers all the Eastern European nations for which we have data regarding both gun ownership and murder rates. Gun ownership data comes from GRADUATE INSTITUTE OF INTERNATIONAL STUDIES, SMALL ARMS SURVEY (2003).

* CANADIAN CENTRE FOR JUSTICE STATISTICS, HOMICIDE IN CANADA, 2002, JURISTAT at 3.

** United Nations Office on Drugs and Crime, *The Seventh United Nations Survey on Crime Trends and the Operations of Criminal Justice Systems (1998–2000)*, Mar. 31, 2004, at 82, 260, 287, 370, 405, 398.

† CANADIAN CENTRE FOR JUSTICE STATISTICS, HOMICIDE IN CANADA, 2003, JURISTAT at 3.

‡ CANADIAN CENTRE FOR JUSTICE STATISTICS, HOMICIDE IN CANADA, 2004, JURISTAT at 3.

On their face, Tables 1, 2, and 3 and the comparisons gleaned from them suggest that gun ownership is irrelevant, or has little relevance, to murder. Historical and demographic comparisons offer further evidence. Again, all the data may be misleading. It is conceivable that more guns do equal more murder, but that this causation does not appear because some unidentifiable extraneous factor always intervenes. That is conceivable, but ultimately unlikely. As Hans Toch, a senior American criminologist who 35 years ago endorsed handgun prohibition and confiscation, but then recanted based on later research, argues “it is hard to explain that where firearms are most dense, violent crime rates are lowest and where guns are least dense, violent crime rates are highest.”⁹⁰

90. Toch & Lizotte, *supra* note 11, at 232. Professor Toch was a consultant to the 1960s Eisenhower Commission, and until the 1990s he endorsed its conclusions that

A. Demographic Patterns

Contrary to what should be the case if more guns equal more death, there are no “consistent indications of a link between gun ownership and criminal or violent behavior by owners;” in fact, gun ownership is “higher among whites than among blacks, higher among middle-aged people than among young people, higher among married than among unmarried people, higher among richer people than poor” — all “patterns that are the reverse of the way in which criminal behavior is distributed.”⁹¹

These conclusions are reinforced by focusing on patterns of African-American homicide. Per capita, African-American murder rates are much higher than the murder rate for whites.⁹² If more guns equal more death, and fewer guns equal less, one might assume gun ownership is higher among African-Americans than among whites, but in fact African-American gun ownership is markedly lower than white gun ownership.⁹³

widespread handgun ownership causes violence and that reducing ownership would reduce violence. Franklin Zimring, one of the architects of those conclusions, has admitted that they were made speculatively and essentially without an empirical basis. FRANKLIN E. ZIMRING & GORDON HAWKINS, *THE CITIZEN'S GUIDE TO GUN CONTROL* xi-xii (1987) (“In the 1960s after the assassinations of President John F. Kennedy, Dr. Martin Luther King, Jr., and Senator Robert F. Kennedy, it [gun control] became a major subject of public passion and controversy . . . [sparking a debate that] has been heated, acrimonious and polarized . . . It began in a factual vacuum [in which] . . . neither side felt any great need for factual support to buttress foregone conclusions. *In the 1960s, there was literally no scholarship on the relationship between guns and violence and the incidence or consequences of interpersonal violence, and no work in progress.*” (emphasis added)).

As for the findings of the subsequent body of research, Professor Toch has written:

[W]hen used for protection firearms can seriously inhibit aggression and can provide a psychological buffer against the fear of crime. Furthermore, the fact that national patterns show little violent crime where guns are most dense implies that guns do not elicit aggression in any meaningful way Quite the contrary, these findings suggest that high saturations of guns in places, or something correlated with that condition, inhibit illegal aggression.

Id. at 234 & n.10.

91. KLECK, *supra* note 8, at 71.

92. See MALCOLM, *supra* note 10, at 232–33; Alfred Blumstein, *Youth Violence, Guns, and the Illicit-Drug Industry*, 86 J. CRIM. L. & CRIMINOLOGY 10, 21 (1995).

93. See LOTT, *supra* note 11, at 39 (“[W]hite gun ownership exceed[ed] that for blacks by about 40 in 1996”); see also KLECK, *supra* note 8, at 71.

Particularly corrosive to the mantra are the facts as to rural African-Americans gun ownership. Per capita, rural African-Americans are much more likely to own firearms than are urban African-Americans.⁹⁴ Yet, despite their greater access to guns, the firearm murder rate of young rural black males is a small fraction of the firearm murder rate of young urban black males.⁹⁵

These facts are only anomalous in relation to the mantra that more guns equal more death and fewer guns equal less death. In contrast, these facts accord with the earlier point regarding the aberrance of murderers. Whatever their race, ordinary people simply do not murder. Thus preventing law-abiding, responsible African-Americans from owning guns does nothing at all to reduce murderers, because they are not the ones who are doing the killing. The murderers are a small minority of extreme antisocial aberrants *who manage to obtain guns whatever the level of gun ownership in the African American community.*

Indeed, murderers generally fall into a group some criminologists have called “violent predators,” sharply differentiating them not only from the overall population but from other criminals as well.⁹⁶ Surveys of imprisoned felons indicate that when not imprisoned the ordinary felon averages perhaps 12 crimes per year.⁹⁷ In contrast, “violent predators” spend much or most of their time committing crimes, averaging at least 5 assaults, 63 robberies, and 172 burglaries annually.⁹⁸ A National Institute of Justice survey of 2,000 felons in 10 state prisons, which focused on gun crime, said of these types of respondents:

[T]he men we have labeled Predators were clearly omnibus felons . . . [committing] more or less any crime they had the opportunity to commit The Predators (handgun and shotgun combined) . . . amounted to about 22% of the sample and yet accounted for 51% of the total crime [admitted by the 2,000 felons] Thus, when we talk about “control-

94. See LOTT, *supra* note 11, at 39; *see also* KLECK, *supra* note 8, at 71.

95. The murder rate of young urban African Americans is roughly 600% higher than that of their rural counterparts. *See* Lois A. Fingerhut et al., *Firearm and Nonfirearm Homicide Among Persons 15 Through 19 Years of Age*, 267 J. AM. MED. ASS'N 3048, 3049 tbl.1.

96. JAN M. CHAIKEN & MARCIA R. CHAIKEN, *VARIETIES OF CRIMINAL BEHAVIOR* 62–63 (1982).

97. *Id.* at 65.

98. *Id.* at 123, 125, 219 tbl.A.19.

ling crime" in the United States today, we are talking largely about controlling the behavior of these men.⁹⁹

The point is not just that demographic patterns of homicide and gun ownership in the African-American community do not support the more guns equal more death mantra. More importantly, those patterns refute the logic of fewer guns equal less death. The reason fewer guns among ordinary African-Americans does not lead to fewer murders is because that paucity does not translate to fewer guns for the aberrant minority who do murder. The correlation of very high murder rates with low gun ownership in African-American communities simply does not bear out the notion that disarming the populace as a whole will disarm and prevent murder by potential murderers.

B. *Macro-historical Evidence: From the Middle Ages to the 20th Century*

The Middle Ages were a time of notoriously brutal and endemic warfare. They also experienced rates of ordinary murder almost double the highest recorded U.S. murder rate.¹⁰⁰ But Middle Age homicide "cannot be explained in terms of the availability of firearms, which had not yet been invented."¹⁰¹ The invention provides some test of the mantra. If it is true that more guns equal more murder and fewer guns equal less death, murder should have risen with the invention, increased efficiency, and greater availability of firearms across the population.

Yet, using England as an example, murder rates seem to have fallen sharply as guns became progressively more efficient and widely owned during the five centuries after the invention of firearms.¹⁰² During much of this period, because the entire adult male population of England was deemed to constitute a militia, every military age male was required to possess arms for use in militia training and service.¹⁰³

99. WRIGHT & ROSSI, *supra* note 83, at 76.

100. LANE, *supra* note 65, at 14.

101. *Id.* at 151. See generally *id.* ch. 1.

102. MALCOLM, *supra* note 10, at 19–20.

103. See generally JOYCE LEE MALCOLM, TO KEEP AND BEAR ARMS: THE ORIGINS OF AN ANGLO-AMERICAN RIGHT 1–15 (1994); STEPHEN P. HALBROOK, THAT EVERY MAN BE ARMED: THE EVOLUTION OF A CONSTITUTIONAL RIGHT 37–53 (1984); Don B. Kates, *Handgun Prohibition and the Original Meaning of the Second Amendment*, 82 MICH. L. REV. 204, 214–16 (1983).

The same requirement was true in America during the period of colonial and post-colonial settlement. Indeed, the basic English militia laws were superceded by the colonies' even more specific and demanding legal requirements of *universal* gun ownership. Under those laws, virtually all colonists and every household were required to own guns. Depending on the colony's laws, male youths were deemed of military age at 16, 17, or 18, and every military age man, except for the insane, infirm, and criminals, had to possess arms. They were subject to being called for inspection, militia drill, or service, all of which legally required them to bring and present their guns. To arm those too poor to afford guns, the laws required that guns be purchased for them and that they make installment payments to pay back the cost.¹⁰⁴

It bears emphasis that these gun ownership requirements were not limited to those subject to militia service. Women, seamen, clergy, and some public officials were automatically exempt from militia call up, as were men over the upper mili-

104. MALCOLM, *supra* note 103, at 138–41; Kates, *supra* note 102, at 214–16. Typical laws (quoted with original spelling and punctuation) appear from the following sources: ARCHIVES OF MARYLAND 77 (William Hand Browne ed., Baltimore, Maryland Historical Society 1883) (“[T]hat every house keeper or housekeepers within this Province shall have ready continually upon all occasions within his her or their house for him or themselves and for every person within his her or their house able to bear armes one Serviceable fixed gunne of bastard muskett boare” along with a pound of gunpowder, four pounds of pistol or musket shot, “match for match locks and of flints for firelocks”); NARRATIVES OF EARLY VIRGINIA 273 (Lyon Gardiner Tyler ed., photo. reprint 1974) (1907) (requiring that everyone attend church on Sunday, further providing that “all suche as beare armes shall bring their pieces swordes, poulder and shotte” with them to church on penalty of a fine); RECORDS OF THE GOVERNOR AND COMPANY OF THE MASSACHUSETTS BAY IN NEW ENGLAND 84 (Nathaniel B. Shurtleff ed., Boston, William White 1853) (ordering towns to provide their residents with arms if they could not provide their own “for the present, & after to receive satisfaction for that they disburse when they shall be able”); RECORDS OF THE COLONY OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, IN NEW ENGLAND 79–80, 94 (John Russell Bartlett ed., Providence, A. Crawford Greene & Brother, 1856) (requiring, respectively: “[T]hat every man do come armed unto the meeting upon every sixth day,” and also that militia officers go “to every inhabitant [in Portsmouth and] see whether every one of them has powder” and bullets; and “that noe man shall go two miles from the Towne unarmed, eyther with Gunn or Sword; and that none shall come to any public Meeting without his weapon.”); THE CODE OF 1650, BEING A COMPILATION OF THE EARLIEST LAWS AND ORDERS OF THE GENERAL COURT OF CONNECTICUT 72 (Hartford, Silas Andrus 1822) (“That all persons that are above the age of sixteene yeares, except magistrates and church officers, shall beare arms . . . and every male person within this jurisdiction, above the said age, shall have in continuall readines, a good muskitt or other gunn, fitt for service, and allowed by the clark of the band.”).

tary age, which varied from 45 to 60, depending on the colony. But every household was required to have a gun, even if all its occupants were otherwise exempt from militia service, to deter criminals and other attackers. Likewise, all respectable men were theoretically required to carry arms when out and abroad.¹⁰⁵

These laws may not have been fully enforced (except in times of danger) in areas that had been long-settled and peaceful. Nevertheless, "by the eighteenth century, colonial Americans were the most heavily armed people in the world."¹⁰⁶ Yet, far from more guns equaling more death, murders in the New England colonies were "rare," and "few" murderers in all the colonies involved guns "despite their wide availability."¹⁰⁷

America remained very well armed yet homicide remained quite low for over two hundred years, from the earliest settlements through the entire colonial period and early years of the United States. Homicide in more settled areas only began rising markedly in the two decades before the Civil War.¹⁰⁸ By that time the universal militia was inoperative and the universality of American gun ownership had disappeared as many people in long-settled peaceful areas did not hunt and had no other need for a firearm.¹⁰⁹

105. For collections of many of the relevant laws, see Clayton E. Cramer, Gun Control in Colonial New England, (unpublished manuscript, available at <http://www.claytoncramer.com/GunControlColonialNewEngland.PDF>) (last visited Nov. 19, 2006); Clayton E. Cramer, Gun Control in Colonial New England, Part II (unpublished manuscript, available at <http://www.claytoncramer.com/GunControlColonialNewEngland2.PDF>) (last visited Nov. 19, 2006); Clayton E. Cramer, Gun Control in the Middle & Southern Colonies, (unpublished manuscript, available at <http://www.claytoncramer.com/MiddleSouthernColonialGunControl.PDF>) (last visited Nov. 19, 2006); Clayton E. Cramer, Militia Statutes, <http://www.claytoncramer.com/primary.html#MilitiaLaws> (last visited Nov. 19, 2006).

106. JOHN MORGAN DEDERER, *WAR IN AMERICA TO 1775*, at 116 (1990).

107. LANE, *supra* note 64, at 48, 59–60.

108. *Id.* at 344.

109. The enthusiasm modern gun advocates express for the ancient militia far exceeds the enthusiasm felt by the Englishmen and Americans who were actually subject to the obligations involved. Guns were expensive items even for those owners who were supplied them by the colonies since they were required to pay the colonies back over time. And the duty of militia drill was a constant source of irritation to men who had little time for leisure and urgent need to devote their time to making a living for themselves and their families. By the turn of the nineteenth century, at the earliest, the universal militia was in desuetude and replaced in the 1840s

The Civil War acquainted vast numbers of men with modern rapid-fire guns, and, in its aftermath, provided a unique opportunity to acquire them. Before the Civil War, reliable multi-shot rifles or shotguns did not exist and revolvers (though they had been invented in the 1830s) were so expensive they were effectively out of reach for most of the American populace.¹¹⁰ The Civil War changed all that. Officers on both sides had to buy their own revolvers, while sidearms were issued to noncommissioned officers generally, as well as those ordinary soldiers who were in the artillery, cavalry, and dragoons.¹¹¹ The fact that over two million men served in the Union Army at various times while the Confederates had over half that number suggests the number of revolvers involved.¹¹²

by colorfully garbed volunteer formations whose activities were more social than military.

110. Revolver inventor Samuel Colt's first business failed in 1840. It revived itself only with sales to officers and the military during the Mexican-American War (1846–1848), and sustained itself through the 1850s with sales to wealthy Americans and Europeans. See JOSEPH G. BILBY, *CIVIL WAR FIREARMS* 157 (1996); LEE KENNETT & JAMES LAVERNE ANDERSON, *THE GUN IN AMERICA* 90 (1975); LANE, *supra* note 65, at 109. Colt's sales flourished as foreign armies adopted his revolver and wide sales took place in the commercial market across Europe, KENNETT & ANDERSON, *supra*, at 90, especially after Colt's prize-winning exhibit at the 1851 Great Industrial Exhibition in London. See generally JOSEPH G. ROSA, *COLONEL COLT LONDON* 13–29 (1976).

111. See generally BILBY, *supra* note 110, at 157–72. The revolvers involved were by no means all Colts: “[T]he Federal government also purchased large numbers of Remington, Starr and Whitney revolvers, as well as the guns of other [American] makers, including the bizarre looking Savage, with its second ‘ring trigger’ which cocked the arm, and the sidehammer Joslyn.” *Id.* at 158. Vast numbers of guns were also purchased in Europe where, in the first 15 months of the war, the Union bought over 738,000 firearms (including long arms as well as revolvers). ALLAN R. MILLETT & PETER MASLOWSKI, *FOR THE COMMON DEFENSE: A MILITARY HISTORY OF THE UNITED STATES OF AMERICA* 216 (1984). Some Union infantry units were issued revolvers and many enlisted infantrymen in other units bought their own. BILBY, *supra* note 110, at 160.

112. These figures are just estimates. While at least somewhat reliable figures exist for how many men served at any one time in the Union Army, that number is not co-extensive with how many served in total. Some Union soldiers served throughout the war, re-enlisting when their original enlistments were up. Others mustered out and were replaced with new recruits. Still others deserted long before their terms were up, again requiring replacements. Some scoundrels enlisted just for the enlistment bonus, and deserted as soon as they could; some of these went through the enlistment and desertion process multiple times, collecting a new bonus under a new name time after time. *THE WORLD ALMANAC AND BOOK OF FACTS* 2006, at 77 (2006) gives figures of 2,128,948 for the Union Army and 84,415 for the Marines; it estimates that the Confederate Army's size was between 600,000 to 1,500,000.

At war's end, the U.S. Army and Navy were left with vast numbers of surplus revolvers, both those they had purchased and those captured from Confederate forces. As the Army plummeted to slightly over 11,000 men,¹¹³ hundreds of thousands of military surplus revolvers were sold at very low prices. In addition, when their enlistments were up, or when they were mustered out at war's end, former officers and soldiers retained hundreds of thousands of both revolvers and rifles. These commandeered arms included many of the new repeating rifles the Union had bought (over the fervent objections of short-sighted military procurement officers) at the command of President Lincoln, who had tested the Spencer rifle himself. After his death the Army reverted to the single-shot rifle, disposing of all its multi-shots at surplus and thereby ruining Spencer by glutting the market.¹¹⁴

Thus over the immediate post-Civil War years "the country was awash with military pistols" and rifles of the most modern design.¹¹⁵ The final three decades of the century saw the introduction and marketing of the "two dollar pistol," which were very cheap handguns manufactured largely out of pot metal.¹¹⁶ In addition to being sold locally, such "suicide specials" were marketed nationwide through Montgomery Ward catalogs starting in 1872 and by Sears from 1886.¹¹⁷ They were priced as low as \$1.69, and were marketed under names like the "Little Giant" and the "Tramp's Terror."¹¹⁸

113. RUSSELL F. WEIGLEY, HISTORY OF THE UNITED STATES ARMY 262 (1967) ("The names of 1,000,516 officers and men were on the [Union Army's] rolls on May 10, 1865; by [the end of 1866, the draft had ended and] . . . only 11,043 volunteers remained . . .").

114. KENNETT & ANDERSON, *supra* note 110, at 92–93.

115. DAVID T. COURTWRIGHT, VIOLENT LAND: SINGLE MEN AND SOCIAL DISORDER FROM THE FRONTIER TO THE INNER CITY 42 (1996).

116. KENNETT & ANDERSON, *supra* note 110, at 99.

117. *Id.* at 98–99.

118. *Id.* at 98–100. An 1879 issue of *Scientific American* contains an advertisement for COD purchasing of the \$2.75 "Czar" revolver, presumably an attempt to capitalize on the Smith & Wesson "Russian," a very high quality weapon that Smith & Wesson manufactured for the Russian government and sold through the 1870s. SCI. AM., June 14, 1879, at 381. The 1884 Price List-Firearms Catalog for N. Curry & Brother, arms dealers of San Francisco, lists prices from \$2.00 for the 7 shot "Fashion" and "Blue Jacket" revolvers to \$2.50 and \$3.50 for the "Kitemaug" and "Ranger" revolvers to various Colt and Smith & Wesson revolvers selling at from \$15.00 to \$17.00. KENNETT & ANDERSON, *supra* note 110, at 98–100.

Thus, the period between 1866 and 1900 saw a vast diffusion of commercial and military surplus revolvers and lever action rifles throughout the American populace. Yet, far from rising, homicide seems to have fallen off sharply during these thirty years.

Whether or not guns were the cause, homicide steadily declined over a period of five centuries coincident with the invention of guns and their diffusion throughout the continent. In America, from the seventeenth century through the early nineteenth century, murder was rare and rarely involved guns, though gun ownership was universal by law and “colonial Americans were the most heavily armed people in the world.”¹¹⁹ By the 1840s, gun ownership had declined but homicide began a spectacular rise through the early 1860s. From the end of the Civil War to the turn of the twentieth century, however, America in general, and urban areas in particular, such as New York, experienced a tremendous spurt in ownership of higher capacity revolvers and rifles than had ever existed before, but the number of murders sharply declined.¹²⁰

In sum, the notion that more guns equal more death is not borne out by the historical evidence available for the period between the Middle Ages and the twentieth century. Yet this conclusion must be viewed with caution. While one may describe broad general trends in murder rates and in the availability of firearms, it is not possible to do so with exactitude. Not until the late 1800s in England, and the mid-1900s in the United States were there detailed data on homicide. Information about the distribution of firearms is even more sparse. For instance, Lane’s generalizations about the rarity of gun murders and low American murder rates in general are subject to some dispute. Professor Randolph Roth, for example, has shown that early American murder rates and the extent to which guns were used in murder varied greatly between differing areas and time periods.¹²¹

119. DEDERER, *supra* note 106, at 116.

120. See LANE, *supra* note 65, at 181, 307; ERIC H. MONKKONEN, MURDER IN NEW YORK CITY 21, 30–31, 38 (2001).

121. Randolph Roth, *Guns, Gun Culture, and Homicide: The Relationship Between Firearms, the Uses of Firearms, and Interpersonal Violence*, 59 WM. & MARY Q. 223, 234–40 (2002).

C. *Later and More Specific Macro-Historical Evidence*

Malcolm presents reliable trend data on both gun ownership and crime in England for the period between 1871 and 1964. Significantly, these trend data do not at all correlate as the mantra would predict: violent crime did not increase with increased gun ownership nor did it decline in periods in which gun ownership was lower.¹²²

In the United States, the murder rate doubled in the ten-year span between the mid-1960s and the mid-1970s. Since this rise coincided with vastly increasing gun sales, it was viewed by many as proof positive that more guns equal more death. That conclusion, however, does not follow. It is at least equally possible that the causation was reversed: that is, the decade's spectacular increases in murder, burglary, and all kinds of violent crimes caused fearful people to buy guns.¹²³ The dubiousness of assuming that the gun sales caused the rise in murder rather than the reverse might have been clearer had it been known in this period that virtually the same murder rate increase was occurring in gun-less Russia.¹²⁴ Clearly there is little basis to assume guns were the reason for the American murder rate rise when the Russian murder rate exhibited the same increase without a similar increase in the number of guns.

Reliable information on both gun ownership and murder rates in the United States is available only for the period commencing at the end of World War II. Significantly, the decade from the mid-1960s to the mid-1970s is a unique exception to the general pattern that, decade-by-decade, the number of guns owned by civilians has risen steadily and

122. See MALCOLM, *supra* note 10, app. at 258. The handgun ownership data cited are tax data and so doubtless fail to count the pistols owned by criminals and others who failed to pay taxes. The extremely low numbers of gun crimes, however, do not support the notion that there were numerous criminal owners of guns, or at least that they used the guns for crime.

123. In contrast to the more guns equal more death mantra, studies suggest that crime rate increases fuel gun buying, rather than the other way around. See, e.g., Douglas C. Bice & David D. Hemley, *The Market for New Handguns: An Empirical Investigation*, 45 J.L. & ECON. 251, 253, 261-262 (2002); Lawrence Southwick, Jr., *Do Guns Cause Crime? Does Crime Cause Guns? A Granger Test*, 25 ATLANTIC ECON. J. 256, 256, 272 (1997); KLECK, *supra* note 8, at 79-81.

124. In 1965, the Russian homicide rate stood at 5.9 per 100,000 population while the American rate was 5.4. As of 1975, both Russian and American rates had nearly doubled, the Russian to 10.3 and the American to 9.7. See Pridemore, *supra* note 2, at 272 fig.2; see also *supra* note 6 and accompanying text.

dramatically but murder rates nevertheless have remained stable or even declined. As for the second half of the twentieth century, and especially its last quarter, a study comparing the number of guns to murder rates found that during the 25-year period from 1973 to 1997, the number of handguns owned by Americans increased 160% while the number of all firearms rose 103%. Yet over that period, the murder rate declined 27.7%.¹²⁵ It continued to decline in the years 1998, 1999, and 2000, despite the addition in each year of two to three million handguns and approximately five million firearms of all kinds. By the end of 2000, the total American gunstock stood at well over 260 million—951.1 guns for every 1,000 Americans—but the murder rate had returned to the comparatively low level prior to the increases of the mid-1960s to mid-1970s period.¹²⁶

In sum, the data for the decades since the end of World War II also fails to bear out the more guns equal more death mantra. The per capita accumulated stock of guns has increased, yet there has been no correspondingly consistent increase in either total violence or gun violence. The evidence is consistent with the hypothesis that gun possession levels have little impact on violence rates.¹²⁷

D. *Geographic Patterns within Nations*

Once again, if more guns equal more death and fewer guns equal less death, areas within nations with higher gun ownership should in general have more murders than those with less gun ownership in a similar area. But, in fact, the reverse pattern prevails in Canada,¹²⁸ “England, America, and Switzerland, [where the areas] with the highest rates of gun ownership were in fact those with the lowest rates of violence.”¹²⁹

125. Don B. Kates & Daniel D. Polsby, *Long-Term Nonrelationship of Widespread and Increasing Firearm Availability to Homicide in the United States*, 4 HOMICIDE STUD. 185, 190–91 (2000).

126. See communication from Gary Kleck, Professor, Florida State University, to Don B. Kates and Gary Mauser (Feb. 26, 2003) (on file with Authors).

127. KLECK, *supra* note 8, at 17–19.

128. See Philip C. Stenning, *Gun Control: A Critique of Current Policy*, POL’Y OPTIONS, Oct. 1994, at 13, 15.

129. MALCOLM, *supra* note 10, at 204; see also BBC News, *Handgun Crime ‘Up’ Despite Ban*, July 16, 2001, http://news.bbc.co.uk/2/hi/uk_news/1440764.stm (noting that English areas with very low numbers of firearms have higher than average gun crime while areas with the highest levels of legally held guns do not).

A recent study of all counties in the United States has again demonstrated the lack of relationship between the prevalence of firearms and homicide.¹³⁰

This inverse correlation is one of several that seems to contradict more guns equal more death. For decades the gun lobby has emphasized that, in general, the American jurisdictions where guns are most restricted have consistently had the highest violent crime rates, and those with the fewest restrictions have the lowest violent crime rates.¹³¹ For instance, robbery is highest in jurisdictions which are most restrictive of gun ownership.¹³² As to one specific control, the ban on carrying concealed weapons for protection, “violent-crime rates were highest in states [that flatly ban carrying concealed weapons], next highest in those that allowed local authorities discretion [to deny] permits, and lowest in states with nondiscretionary” concealed weapons laws under which police are legally required to license every qualified applicant.¹³³ Also of interest are the extensive opinion surveys of incarcerated felons, both juvenile and adult, in which large percentages of the felons replied that they often feared potential victims might be armed and aborted violent crimes because of that fear.¹³⁴ The felons most frightened about confronting an armed victim were those “from states with the greatest relative number of privately owned firearms.”¹³⁵

130. Tomislav Kovandzic, Mark E. Schaffer, & Gary Kleck, *Gun Prevalence, Homicide Rates and Causality: A GMM Approach to Endogeneity Bias* 39–40 (Ctr. for Econ. Policy Research, Discussion Paper No. 5357, 2005) available at <http://ssrn.com/abstract=878132>.

131. See e.g., National Rifle Association Institute for Legislative Action (NRA-ILA), *More Guns, Less Crime* (Sept. 26, 2006), <http://www.nraila.org/Issues/FactSheets/Read.aspx?idequals206&issueequals007>; NRA-ILA, *The War Against Handguns* (Feb. 15, 2001), www.nraila.org/Issues/FactSheets/Read.aspx?idequals17; NRA-ILA, *Right-to-Carry 2006* (Oct. 3, 2006), www.nraila.org/Issues/FactSheets/Read.aspx?idequals18; NRA-ILA, *The Brady Handgun Violence Prevention Act, Does it Live Up to its Name?* (July 28, 1999), www.nraila.org/Issues/FactSheets/Read.aspx?idequals73.

132. See, e.g., Philip J. Cook, *The Effect of Gun Availability on Robbery and Robbery Murder: A Cross Section Study of Fifty Cities*, 3 POL'Y STUD. REV. ANN. 743, 770 (1979).

133. LOTT, *supra* note 11, at 43.

134. WRIGHT & ROSSI, *supra* note 83, at 147, 150.

135. *Id.* at 151.

*E. Geographic Comparisons: European Gun
Ownership and Murder Rates*

This topic has already been addressed at some length in connection with Tables 1–3, which contain the latest data available. Tables 4–6, contain further, and somewhat more comprehensive, data from the early and mid-1990s.¹³⁶ These statistics reinforce the point that murder rates are determined by basic socio-cultural and economic factors rather than mere availability of some particular form of weaponry. Consider Norway and its neighbors Sweden, the Netherlands, and Denmark. Norway has far and away Western Europe's highest household gun ownership rate (32%), but also its lowest murder rate. The Netherlands has the lowest gun ownership rate in Western Europe (1.9%), and Sweden lies midway between (15.1%) the Netherlands and Norway. Yet the Dutch gun murder rate is higher than the Norwegian, and the Swedish rate is even higher, though only slightly.¹³⁷

*Table 4: Intentional Deaths: United States vs.
Continental Europe Rates*

In order of highest combined rate; nations having higher rates than the United States are indicated by asterisk (suicide rate) or + sign (murder rate).

Nation	Suicide	Murder	Combined rates
Russia	41.2*	30.6+	71.8
Estonia	40.1*	22.2+	62.3
Latvia	40.7*	18.2+	58.9
Lithuania	45.6*	11.7+	57.3
Belarus	27.9*	10.4+	38.3
Hungary	32.9*	3.5	36.4
Ukraine	22.5*	11.3+	33.8
Slovenia	28.4*	2.4	30.4
Finland	27.2*	2.9	30.1
Denmark	22.3*	4.9	27.2
Croatia	22.8*	3.3	26.1
Austria	22.2*	1.0	23.2
Bulgaria	17.3*	5.1	22.4
France	20.8*	1.1	21.9
Switzerland	21.4*	1.1‡	24.1

136. Tables 4–6 were previously published as appendices to Kates, *supra* note 81, app. at 81 tbl.1, 82 tbl.2, 83 tbl.3.

137. See *infra* Table 5.

Belgium	18.7*	1.7	20.4
United States	11.6	7.8	19.4
Poland	14.2*	2.8	17.0
Germany	15.8*	1.1	16.9
Romania	12.3*	4.1	16.4
Sweden	15.3*	1.0	16.3
Norway	12.3*	0.8	13.1
Holland	9.8	1.2	11.0
Italy	8.2	1.7	9.9
Portugal	8.2	1.7	9.9
Spain	8.1	0.9	9.0
Greece	3.3	1.3	4.6

Notes: Data based in general on U.N. DEMOGRAPHIC YEARBOOK (1998) as reported in David C. Stolinsky, *America: The Most Violent Nation?* 5 MED. SENTINEL 199-201 (2000). It should be understood that, though the 1998 Yearbook gives figures for as late as 1996, the figures are not necessarily for that year. The Yearbook contains the latest figure each nation has provided the U.N., which may be 1996, 1995, or 1994.

† The Swiss homicide figure that Stolinsky reports is an error because it combines attempts with actual murders. We have computed the Swiss murder rate by averaging the 1994 and 1995 Swiss National Police figures for actual murders in those years given in RICHARD MUNDAY & JAN A. STEVENSON, GUNS AND VIOLENCE: THE DEBATE BEFORE LORD CULLEN 268 (1996).

Table 5: European Gun/Handgun Violent Death

Nation	Suicide with handgun	Murder with handgun	Percent of households with guns	Percent of households with handguns
Belgium	18.7	1.7	16.6%	6.8%
France	20.8	1.1	22.6%	5.5%
West Germany	15.8	1.1	8.9%	6.7%*
Holland	9.8	1.2	1.9%	1.2%
Italy	8.2	1.7	16.0%	5.5%
Norway	12.3	0.8	32%%	3.8%
Sweden	15.3	1.3	15.1%	1.5%
Switzerland	20.8	1.1**	27.2%	12.2%

Notes: For derivation of the homicide rates, see notes to Table 4. The data on household firearms ownership come from British Home Office figures printed in RICHARD MUNDAY & JAN A. STEVENSON, GUNS AND VIOLENCE: THE DEBATE BEFORE LORD CULLEN 30, 275 (1996).

* Note that the data here are for *West* Germany and were obtained when that nation still existed as an independent entity. See *infra* Tables 1 & 4 for later (but differently derived) data for the current nation of Germany.

** Again, the Swiss homicide figure that Stolinsky reports is an error because it combines attempts with actual murders. See notes for Table 4.

Table 6: *European Firearms-Violent Deaths*

Nation	Suicide	Suicide with gun	Murder	Murder with gun	Number of guns per 100,000 population
Austria	N/A	N/A	2.14	0.53	41.02*
Belarus	27.26	N/A	9.86	N/A	16.5
Czech Rep.	9.88	1.01	2.80	0.92	27.58
Estonia	39.99	3.63	22.11	6.2	28.56
Finland	27.28	5.78	3.25	0.87	411.20**
Germany	15.80	1.23	1.81	0.21	122.56
Greece	3.54	1.30	1.33	0.55	77.00
Hungary	33.34	0.88	4.07	0.47	15.54
Moldova	N/A	N/A	17.06	0.63	6.61
Poland	14.23	0.16	2.61	0.27	5.30
Romania	N/A	N/A	4.32	0.12	2.97
Slovakia	13.24	0.58	2.38	0.36	31.91
Spain	5.92	N/A	1.58	0.19	64.69
Sweden	15.65	1.95	1.35	0.31	246.65

Notes: It bears emphasis that the following data come from a special U.N. report whose data are not fully comparable to those in Tables 4 and 5 because they cover different years and derive from substantially differing sources.¹³⁸ This special report is based on data obtained from the governments of the nations set out below, especially data on gun permits or other official indicia of gun ownership in those nations.¹³⁹ The data on suicide and murder in those

138. The data derive from a much more extensive survey of legal firearms ownership in numerous nations which was carried out by researchers provided by the Government of Canada under the auspices of the United Nations Economic and Social Council, Commission on Crime Prevention and Criminal Justice in 1997. The entire survey is published as a report to the Secretary General on April 25, 1997 as E/CN.15/1997/4. That report is analysed in some detail in an unpublished paper ("A Cross Sectional Study of the Relationship Between Levels of Gun Ownership and Violent Deaths") written by the leading English student of firearms regulation, retired Chief Superintendent of English police Colin Greenwood of the Firearms Research and Advisory Service. We are indebted to Chief Superintendent Greenwood for the opportunity to review his paper. Note that in the table which follows we have focused only on European nations.

139. The gun ownership data in Table 4 derive from a random telephone survey on gun ownership in various nations. Chief Superintendent Greenwood's paper is contemptuous of such data, in part because people may be unwilling to acknowledge owning guns to telephoning pollsters. For similar doubts see Don B. Kates & Daniel D. Polsby, *Long Term Non-Relationship of Firearm Availability to Homicide*, 4 HOMICIDE STUD. 185-201 (2000). But that was in the context of comparing survey data on the number of guns owned to production and important data that are unquestionably more comprehensive and superior in every way. Chief Superintendent Greenwood himself admits that the special U.N. report data are not necessarily

nations also come from their governments as do the similar data in Tables 4 and 5, but for later years, and also include data on the number of firearm homicides and firearm suicides which are not available from the U.N. source used in Tables 4 and 5.

* This may well be an undercount because an Austrian license is not limited to a single firearm but rather allows the licensee to possess multiple guns.

** The source from which Table 5 derives also gives figures for Finland, which we have omitted there because they are earlier and closely similar except in one respect: instead of official ownership figures for guns, they give a survey-based figure for households having a gun: 23.2%.

These comparisons are reinforced by Table 6, which gives differently derived (and non-comparable) gun ownership rates, overall murder rates, and rates of gun murder, for a larger set of European nations.¹⁴⁰ Table 6 reveals that even though Sweden has more than double the rate of gun ownership as neighboring Germany, as well as more gun murders, it has 25% less murder overall. In turn, Germany, with three times the gun ownership rate of neighboring Austria, has a substantially lower murder rate overall and a lower gun murder rate. Likewise, though Greece has over twice the per capita gun ownership rate of the Czech Republic, Greece has substantially less gun murder and less than half as much murder overall. Although Spain has over 12 times more gun ownership than Poland, the latter has almost a third more gun murder and more overall murder than the former. Finally, Finland has 14 times more gun ownership than neighboring Estonia, yet Estonia's gun murder and overall murder rates are about seven times higher than Finland's.

F. *Geographic Comparisons: Gun Ownership and Suicide Rates*

The mantra more guns equal more death and fewer guns equal less death is also used to argue that "limiting access to firearms could prevent many suicides."¹⁴¹ Once again, this assertion is di-

comprehensive and are problematic in various other respects. Even assuming they are clearly superior to the survey data, the latter cover multiple nations that the special U.N. report does not. Given that neither source is indubitable, it seems preferable to have such information on those nations as the survey data reveal, rather than no data at all.

140. Table 6 covers different years from Table 5, its comparative gun ownership figures derive from government records rather than survey data, and it gives rates for gun murders, data that are not available in the sources from which Table 5 is taken. See the explanatory note that precedes Table 6.

141. Arthur L. Kellermann et al., *Suicide in the Home in Relation to Gun Ownership*, 327 NEW ENG. J. MED. 467, 467, 471-72 (1992); see also Antoon Leenaars, et al., *Controlling the Environment to Prevent Suicide: International Perspectives*, 45 CAN. J. PSYCHIATRY 639 (2000).

rectly contradicted by the studies of 36 and 21 nations (respectively) which find no statistical relationship. Overall suicide rates were no worse in nations with many firearms than in those where firearms were far less widespread.¹⁴²

Consider the data about European nations in Tables 5 and 6. Sweden, with over twice as much gun ownership as neighboring Germany and a third more gun suicide, nevertheless has the lower overall suicide rate. Greece has nearly three times more gun ownership than the Czech Republic and somewhat more gun suicide, yet the overall Czech suicide rate is over 175% higher than the Greek rate. Spain has over 12 times more gun ownership than Poland, yet the latter's overall suicide rate is more than double the former's. Tragically, Finland has over 14 times more gun ownership than neighboring Estonia, and a great deal more gun-related suicide. Estonia, however, turns out to have a much higher suicide rate than Finland overall.

There is simply no relationship evident between the extent of suicide and the extent of gun ownership. People do not commit suicide because they have guns available. In the absence of firearms, people who are inclined to commit suicide kill themselves some other way.¹⁴³ Two examples seem as pertinent as they are poignant. The first concerns the 1980s increase in suicide among young American males, an increase that, although relatively modest, inspired perfervid denunciations of gun ownership.¹⁴⁴ What these denunciations failed to mention was that suicide of teenagers and young adults was increasing throughout the entire industrialized world, regardless of gun availability, and often much more rapidly than in the United States. The only unusual aspect of suicide in the United States was that it involved guns. The irrelevancy of guns to the increase in American suicide is evident because suicide among English youth actually increased 10 times more

142. See Killias et al., *supra* note 42, at 430 (study of 21 nations); see generally KLECK, *supra* note 8.

143. See KLECK, *supra* note 8, at ch. 8; see also World Health Organization, *supra* note 43, at 3 (showing that around the world "firearms accounted for only one-fifth of all suicides, just ahead of poisoning . . . [s]trangulation, i.e. (hanging) was the most frequently used method of suicide").

144. See, e.g., Jeffrey H. Boyd & Eve K. Moscicki, *Firearms and Youth Suicide*, 76 AM. J. PUB. HEALTH 1240 (1986); James A. Mercy et al., *Public Health Policy for Preventing Violence*, 12 HEALTH AFF. 7 (1993); Daniel W. Webster & Modena E. H. Wilson, *Gun Violence Among Youth and the Pediatrician's Role in Primary Prevention*, 94 PEDIATRICS 617 (1994); Lois A. Fingerhut & Joel C. Kleinman, *Firearm Mortality Among Children and Youth*, NAT'L CTR HEALTH STAT. ADVANCE DATA, Nov. 3, 1989, at 1.

sharply, with “car exhaust poisoning [being] the method of suicide used most often.”¹⁴⁵ By omitting such facts, the articles blaming guns for increasing American suicide evaded the inconvenience of having to explain exactly what social benefit nations with few guns received from having their youth suicides occur in other ways.

Even more poignant are the suicides of many young Indian women born and raised on the island of Fiji. In general, women are much less likely to commit suicide than are men.¹⁴⁶ This statistic is true of Fijian women overall as well, but not of women in the large part of Fiji’s population that is of Indian ancestry. As children, these Indian women are raised in more-or-less loving and supportive homes. But upon marriage they are dispersed across the island to remote areas where they live with their husbands’ families, an often overtly hostile situation the husbands do little to mitigate. Indian women on Fiji have a suicide rate nearly as high as that of Indian men, a rate many times greater than that of non-Indian Fijian women.¹⁴⁷ It also bears emphasis that the overall Fijian suicide rate far exceeds that of the United States.

The method of suicide is particularly significant. Fijian women of Indian ancestry commit suicide without using guns, perhaps because guns are unavailable. About three-quarters of these women hang themselves, while virtually all the rest die from consuming the agricultural pesticide paraquat. The recommendation of the author whose article chronicles all these suicides is so myopic as to almost caricature the more guns equal more death mindset: to reduce suicide by Indian women, she recommends that the Fijian state stringently control paraquat.¹⁴⁸ Apparently she believes de-

145. Keith Hawton, *By Their Own Young Hand*, 304 BRIT. MED. J. 1000 (1992); see also *Teenage Deaths Increasing Across Europe*, CRIM. & JUST. INT’L, Nov.–Dec. 1991, at 4.

146. World Health Organization, *Suicide Rates by Country*, http://www.who.int/mental_health/prevention/suicide/country_reports/en/index.html (follow hyperlinks to specific countries) (last visited Jan. 18, 2007). For example, in the United States, suicide rates for males exceed those for females by a 17.9-4.2 margin (2002 data). In Denmark, the margin is 19.2-8.1 (2001 data); in Austria, the margin is 27.0-8.2 (2004 data); and in Belgium, the margin is 31.2-11.4 (1997 data).

147. See Ruth H. Haynes, *Suicide in Fiji: A Preliminary Study*, 145 BRIT. J. PSYCHIATRY 433 (1984).

148. *Id.* at 437. More or less the same situation seems to prevail in the substantially Indian-populated nation of Sri Lanka (formerly Ceylon). It “has one of the highest suicide rates in the world . . . Suicides are especially frequent among young adults,

creased access to a means of death will reconcile these women to a life situation they regard as unendurable. At the risk of belaboring what should be all too obvious, restricting paraquat will not improve the lives of these poor women. It will only reorient them towards hanging, drowning, or some other means of suicide.

Guns are just one among numerous available deadly instruments. Thus, banning guns cannot reduce the amount of suicides. Such measures only reduce the number of suicides by firearms. Suicides committed in other ways increase to make up the difference. People do not commit suicide because they have guns available. They kill themselves for reasons they deem sufficient, and in the absence of firearms they just kill themselves in some other way.

CONCLUSION

This Article has reviewed a significant amount of evidence from a wide variety of international sources. Each individual portion of evidence is subject to cavil—at the very least the general objection that the persuasiveness of social scientific evidence cannot remotely approach the persuasiveness of conclusions in the physical sciences. Nevertheless, the burden of proof rests on the proponents of the more guns equal more death and fewer guns equal less death mantra, especially since they argue public policy ought to be based on that mantra.¹⁴⁹ To bear that burden would at the very least require showing that a large number of nations with more guns have more death and that nations that have imposed stringent gun controls have achieved substantial reductions in criminal violence (or suicide). But those correlations are not observed when a large number of nations are compared across the world.

both male and female. Compared to the U.S., the suicide rate for males ages 15 to 24 years in Sri Lanka is nearly four times greater; the female rate nearly 13 times greater. *The most common mode of suicide is ingestion of liquid pesticides.*" Lawrence R. Berger, *Suicides and Pesticides in Sri Lanka*, 78 AM. J. PUB. HEALTH 826 (1988) (emphasis added).

149. (1) Those who propose to change the status quo bear the burden of proving that change is a good idea; (2) those who propose a new policy bear the burden of proving that the policy is a good idea; and (3) in a free society those who propose to abolish a personal liberty passionately valued by millions bear the burden of proving that abolishment is a good idea.

Over a decade ago, Professor Brandon Centerwall of the University of Washington undertook an extensive, statistically sophisticated study comparing areas in the United States and Canada to determine whether Canada's more restrictive policies had better contained criminal violence. When he published his results it was with the admonition:

If you are surprised by [our] finding[s], so [are we]. [We] did not begin this research with any intent to "exonerate" handguns, but there it is—a negative finding, to be sure, but a negative finding is nevertheless a positive contribution. It directs us where not to aim public health resources.¹⁵⁰

150. Brandon S. Centerwall, *Author's Response to "Invited Commentary: Common Wisdom and Plain Truth,"* 134 AM. J. EPIDEMIOLOGY 1264, 1264 (1991).