

Why Ballistic Fingerprinting Is Not An Effective Crime Tool (May 2003)

After a killing spree in the national capital area in October, 2002, gun haters have once again used the Beltway shootings as an excuse for more gun control.

USA Today.¹ *The New York Times*.² Various syndicated columnists. They have all jumped on the gun control bandwagon. This should be no surprise, for gun control advocates feel that restrictions on firearms are the cure for all of society's ills: from stopping murderers to curing the common cold.

Remember how Mayor David Dinkins responded to the stabbing murder of a Utah tourist on the New York City subway in 1990? In a subsequent press conference, Mayor Dinkins said that the stabbing (with a knife) proved that we needed more gun control, such as a national waiting period on firearm purchases!³

Well, the latest weapon in the gun hater's arsenal is the registration of firearms. Specifically, they want to register the supposedly unique "ballistic fingerprint" that many firearms leave on bullets or cartridge cases after they are fired, and trace them back to the original buyer of the guns.

Ballistic fingerprinting will hardly ever solve a crime, but it will accomplish something else -- a gun registry tied to the owners of the guns.

Ballistic registration does not work to track criminals

Ballistic fingerprinting will not work to lower crime rates for a number of reasons. Probably foremost is that most crooks do not use valid IDs to buy guns in stores. According to the Carter Justice Department study done by Drs. Wright and Rossi, criminals usually do not leave a paper trail when buying guns.⁴ That means that the evidence chain will rarely ever connect back to the bad guys.

To state the obvious, criminals can steal their guns from their victims, or they can borrow or rent

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Written by Gun Owners

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them from fellow crooks.

Lee Boyd Malvo, one of the DC-area snipers in October of 2002, has admitted that he stole his Bushmaster rifle from a gun store in the state of Washington.⁵ All the ballistic registration laws imaginable would not have linked the gun to him.

Even when bad guys buy their weapons from gun stores, they can use fake IDs or straw purchasers to complete the sale.

The General Accounting Office issued a report in 2001 which shows how investigators were able to purchase guns using fake IDs every time they tried.⁶ Of course, this suggests that criminals can easily get their firearms from gun stores -- even while submitting to the background check.

All the evidence to date suggests that criminals will easily be able to get around a registration scheme that traces ballistic evidence at a crime scene back to the person who originally bought the firearm:

* Maryland registers the ballistic fingerprints of every new handgun sold in the state. To date -- despite the fact that thousands of ballistic fingerprints have been registered with the state police -- not one crime has yet been solved with this technology.⁷

* New York has registered more than 29,000 ballistic fingerprints, and, once again, not one bad guy has been taken off the street using this scheme.⁸

Most criminals aren't stupid enough to buy a gun using their real name. That is why Maryland and New York are having such a difficult time tracing ballistic evidence from the crime scene to the criminal who used the weapon.

Ballistic fingerprints can change

But won't ballistic registration help us catch those "stupid criminals" that buy a firearm from a gun store using their real name?

Well, not really. Unlike the human hand, there are many ways to change the ballistic fingerprints

that a particular gun leaves. "Ballistic imprints, unlike fingerprints and DNA, can be altered, either deliberately or simply through normal use," says a document made available by the Fraternal Order of Police.⁹

The ballistic signature can be changed with numerous firings of the gun. While these changes are most pronounced when the gun is new, it is not difficult to intentionally change the signature later on.

Barrels and firing pins can be replaced (or filed), creating a brand new signature that does not exist in anybody's data base.¹⁰ Moreover, an astute criminal can simply use a gun which does not eject casings (such as a revolver) or use a brass catcher on a semi-automatic to prevent casings from being left at the scene of a crime.

Problems with the ballistic fingerprinting technology

Compounding the problem is the fact that the existing technology which helps trace bullets or their casings back to the guns that fired them is fatally flawed. According to a study commissioned by the California Department of Justice, current computer matching systems "do not provide conclusive results."¹¹

That's quite an admission, seeing as that the agency commissioning the study could easily view itself as an appendage of Sarah Brady's organization in the nation's capital. California Attorney General Bill Lockyer is a steadfast gun control supporter who is committed to registering guns and bullets.¹²

Thus, one must understand that the study's conclusion -- that current ballistic fingerprinting technology is "impractical" and will create tremendous "logistic complications" -- is an admission that goes 180 degrees contrary to Lockyer's special interests.¹³ He wants the system to go forward, but the study has demonstrated the monstrous problems inherent to making gun control work.

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After firing almost 800 test guns in the study, the computers incorrectly matched the casings to the guns that fired them as much as 62 percent of the time.¹⁵ When one considers that a state or national ballistic registration system would include thousands or millions of guns -- not just 800 -- one realizes the immensity of the problem.

No wonder the Fraternal Order of Police has publicly gone on record in opposition to a national ballistic registration system. "The FOP does not support any federal requirement to register privately owned firearms with the federal government," the FOP said in its 2002 statement.¹⁷

Nevertheless, gun banners always fall back on one last argument when shown that their ideas won't work. You've probably heard it before: "What if it helps save one life or helps solve one crime?"

Register guns if it helps stop one crook?

For beginners, one could forcefully argue that redirecting critical law enforcement dollars *away from*

programs that work in favor of programs that

do not work

is in itself, a recipe for costing innocent lives. These are "law enforcement dollars best spent elsewhere," the FOP said in regard to ballistic fingerprinting programs.

¹⁸

Yes, the "saves one life" crowd usually fails to consider the tremendous costs that result from implementing their programs or ideas. The "save one life" argument is quite pernicious, for there are many things that could be done which could arguably help save lives -- but only after paying a very high price.

We could institute a national curfew. We could videotape every person's movements to and from his house. We could allow government officials to eavesdrop on every conversation a person makes, whether on the phone, at their home, or on the computer. (Wouldn't this help government officials stop crimes before they are committed?)

Better yet, what if the government banned all types of cars, vans and trucks. Wouldn't that prevent killers like the Beltway sniper from using a getaway car? If only the police were allowed to drive cars, then snipers would have to escape on foot, greatly increasing the chances that they would be caught.

In short, there are a lot of things that might actually help police catch crooks. We could throw out the Bill of Rights, for that document represents a host of limitations and hurdles that makes it difficult for government officials to nab bad guys.

But at what cost? The Bill of Rights is premised upon the fact that we can't always trust the government to do what's lawful. If we start slicing up that important document in the name of controlling crime, decent Americans will have exchanged their freedom for a false sense of security.

And to be sure, gun registration will not bring security. Registration has been used in other countries, and in this country as well, to help police confiscate firearms from law-abiding gun owners -- a result which, in the long run, will actually make people less safe.

Registration often leads to confiscation

Consider what happened in New York City. For 25 years all rifles and shotguns were registered. The city's politicians insisted that crime fighting, not confiscation, was the goal. Then, the law was changed and many of the previously legal guns were on the prohibited list. Those that were not surrendered were confiscated during raids on owners' homes using the registration lists.¹⁹

Guns are used in this country 60 times more often to defend life than to take life.²⁰ No doubt, confiscating firearms will take away people's best ability to protect themselves and their families.

It is very ironic that many of these same gun haters who want to trust the government with the names of gun owners, are themselves very paranoid of government excesses in other areas.

Opposition to registration is hardly the paranoia that gun control supporters want people to believe. Often these same gun control advocates are (rightly) suspicious of the government when Fourth Amendment rights, rather than Second Amendment rights, are involved.

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Many pro-gun control civil libertarians (rightly) opposed the PATRIOT Act and John Ashcroft's inability to limit his actions within constitutional boundaries. They do not call themselves paranoid when opposing the PATRIOT Act which authorizes massive invasions of personal privacy, but inconsistently, label gun owners as paranoid for opposing gun registration.

Some proponents who want to keep a registry of bullet signatures insist that this is not gun control, just a crime tool. If you study the debates over every piece of gun control legislation in the past, you will find the same argument being made. Gun control has always been advanced as just crime control.

England used registration to ban guns. Now, according to a 2002 UN study, England is the most violent of the 17 leading industrial countries.²¹ If a ban on an island has failed to control crime, what makes us think that any measure short of a ban will do any better here?

The bottom line is that gun registration will actually make people less safe. Every day, guns in private hands are used almost 7,000 times in self-defense.²² Setting up a registration system, such as New York City has, only brings us closer to the day when the government takes away those very guns which people so successfully use to protect themselves and their families.

¹ "Sniper attacks expose need for better gun-tracking tools," *USA Today* (October 7, 2002).

² Fox Butterfield, "Law Bars a National System for Tracing Bullets and Shells," *New York Times* (October 7, 2002).

³ David B. Kopel, *Guns: Who Should Have Them?* (1995), p. 88.

⁴ James D. Wright and Peter H. Rossi, U.S., Department of Justice, National Institute of Justice, "The Armed Criminal in America: A Survey of Incarcerated Felons," *Research Report* (July 1985), pp. 35-36.

⁵ "Report: Malvo says he shoplifted rifle; *Seattle Times* says sniper suspect told investigators \$1,600 military-style weapon came from Tacoma gun shop,"

The Associated Press

(April 29, 2003).

⁶ General Accounting Office, *Firearms Purchased From Federal Firearm Licensees Using Bogus Identification* (March 2001).

⁷ According to Maryland State Police spokesman Greg Shipley, approximately 17,000 shell casings have been recorded under the state ballistic fingerprint law. Despite the fact that this law has been in effect since October 2000, not one criminal has yet to be arrested and convicted as a result.

⁸ These figures were provided by a reliable New York State Police source familiar with this program, but who asked that his name be kept anonymous.

⁹ Jeff Johnson, "Police Challenge Gun Control Advocates on Ballistic Imaging," CNSNews.com (October 29, 2002). The entire text of the statement made by the Fraternal Order of Police can be read at <http://www.tsra.com/FOP.htm> on the Internet.

¹⁰ "Changing the signature of a breech face or firing pin impression for one of the CHP handguns used in this study was a relatively easy affair. The minor alteration required less than 5 minutes of labor to change the signature of the breech face and firing pin. This change is sufficient to make the cartridge case breech face unrecognizable, by the IBIS algorithm, to the first set of cartridge cases test fired from that same pistol. This type of effort has happened in actual laboratory casework." See Frederic A. Tulleners, Laboratory Director of the Sacramento and Santa Rosa Criminalistics Laboratories, "Technical Evaluation: Feasibility of a Ballistics Imaging Database for all New Handgun Sales" (October 5, 2001), p. I-5.

¹¹ Tulleners, p. I-1 (see *supra* note 10).

¹² According to the *Sacramento Bee*, Attorney General Bill Lockyer is "a gun-control advocate who supports what could ultimately be a large and costly federal database of the unique markings guns leave on bullets and shell casings after being fired." Gary Delsohn, "Ballistic-fingerprint study triggers dispute," *Sacramento Bee*, (November 19, 2002).

¹³ According to the report from California, "This study indicates that this number of candidate cases will be so large as to be impractical and will likely create logistic complications so great that they cannot be effectively addressed." Tulleners, p. I-1 (see *supra* note 10).

¹⁴ An independent review of the California study was conducted by internationally renowned ballistics expert Jan De Kinder, who is the Head of the Ballistics Section of the National Institute of Forensic Sciences for the Belgium Department of Justice. De Kinder's professional review confirms the findings of the initial report. See Appendix D of the Lockyer report (*supra* note 10): Dr. Jan De Kinder, "AB1717 report,"

Technical Evaluation: Feasibility of a Ballistics Imaging Database for All New Handgun Sales

¹⁵ Tulleners, pp. I-3 - I-5 (see *supra* note 10)

¹⁶ Some gun control proponents think that adding more ballistic signatures into the computer system will help improve the ability to create matches with casings left at crime scenes. The California study (see *supra* note 9) would seem to argue for just the opposite. Adding more ballistic signatures into the computer will only compound the problem -- as there was already a 62 percent error rate in a study using a mere 800 different guns. De Kinder makes this very point in his report: "The trends in the obtained results show that the situation worsens as the number of firearms in the database is increased." (See De Kinder, "AB1717 report,"

supra note 14.)

¹⁷ See *supra* note 9.

¹⁸ *Ibid.*

¹⁹ In 1992, a New York City paper reported that, "Police raided the home of a Staten Island man who refused to comply with the city's tough ban on assault weapons, and seized an arsenal of firearms.... Spot checks are planned [for other homes]." John Marzulli, "Weapons ban defied: S.I. man, arsenal seized," *Daily News* (September 5, 1992).

²⁰ According to criminologist Gary Kleck of Florida State University, law-abiding citizens use guns to defend themselves against criminals as many as 2.5 million times every year. According to the National Safety Council, the total number of gun deaths (by accidents, suicides and homicides) account for less than 40,000 deaths per year. This means that each year, firearms are used more than 60 times more often to protect the lives of honest citizens than to take lives. [See Gary Kleck and Marc Gertz, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense With a Gun," 86 *The Journal of Criminal Law and Criminology*, Northwestern University School of Law, 1 (Fall 1995):164; and

Injury Facts

, published yearly by the National Safety Council, Itasca, Illinois.]

²¹ John van Kesteren, Pat Mayhew, and Paul Nieuwbeerta, P., "Criminal Victimization in Seventeen Industrialised Countries," *International Crime Victims Survey* (2000) at http://www.unicri.it/icvs/publications/index_pub.htm

on the Internet. See also Sophie Goodchild, "Britain is now the crime capital of the West,"

Independent

(July 14, 2002).

²² Kleck and Gertz, p. 164 (see *supra* note 20).

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