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**Gun Control Fact-Sheet 2004** Gun Owners Foundation  
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## 1. Highlights

- \* Guns are used 2.5 million times a year in self-defense. Law-abiding citizens use guns to defend themselves.
- \* Even anti-gun Clinton researchers concede that guns are used 1.5 million times annually for self-defense.
- \* Concealed carry laws have reduced murder and crime rates in the states that have enacted them. According to a study by the U.S. Department of Justice, states with concealed carry laws have lower murder rates than states without.
- \* Anti-gun journal pronounces the failure of the Brady law. One of the nation's leading anti-gun medical journals, the *Journal of the American Medical Association*, published a study in 1997 that found that the Brady law, which requires gun buyers to wait 7 days before purchasing a handgun, had no effect on the rate of gun-related deaths.
- \* Twice as many children are killed playing football in school than are murdered by guns. That's right. Deaths from gun violence are a small fraction of the deaths from football.
- \* More guns, less crime. In the decade of the 1990s, the number of guns in this country increased by roughly 50%, while the crime rate fell by more than 50%.
- \* CDC admits there is no evidence that gun control reduces crime. The Centers for Disease Control (CDC) has repeatedly stated that there is no evidence that gun control reduces crime.
- \* Gun shows are NOT a primary source of illegal guns for criminals. According to two government studies, gun shows are not a primary source of illegal guns for criminals.
- \* Several polls show that Americans are very pro-gun. Several scientific polls indicate that the right to keep and bear arms is a fundamental right.
- \* In 2002, an ABC News poll found that almost three-fourths of the American public believe that the Second Amendment is important to the nation's identity.

- \* Zogby pollsters found that by a more than 3 to 1 margin, Americans support punishing "criminals who u
- \* A Research 2000 poll found that 85% of Americans would find it appropriate for a principal or teacher t
- \* A study claiming "guns are three times more likely to kill you than help you" is a total fraud. Even using
- \* Researcher Don Kates reveals that all available data now indicates that the "home gun homicide victim
- \* In other words, the victims were NOT murdered with their own guns! They were killed "by intruders who
- \* Gun-free England not such a utopia after all. According to the BBC News, handgun crime in the United

## 2. Self-defense

### A. Guns save more lives than they take; prevent more injuries than they inflict

- \* Guns are used 2.5 million times a year in self-defense. Law-abiding citizens use guns to defend thems
- \* Of the 2.5 million times citizens use their guns to defend themselves every year, the overwhelming ma
- \* As many as 200,000 women use a gun every year to defend themselves against sexual abuse.(23)
- \* Even anti-gun Clinton researchers concede that guns are used 1.5 million times annually for self-defen
- \* Armed citizens kill more crooks than do the police. Citizens shoot and kill at least twice as many crimin

\* Handguns are the weapon of choice for self-defense. Citizens use handguns to protect themselves over

### **B. Concealed carry laws help reduce crime**

\* Nationwide: one-half million self-defense uses. Every year, as many as one-half million citizens defend

\* Concealed carry laws are dropping crime rates across the country. A comprehensive national study de

\* States which passed concealed carry laws reduced their rate of murder by 8.5%, rape by 5%, aggrava

\* If those states not having concealed carry laws had adopted such laws in 1992, then approximately 1,5

\* Vermont: one of the safest five states in the country. In Vermont, citizens can carry a firearm without g

\* Florida: concealed carry helps slash the murder rate in the state. In the fifteen years following the pass

\* Do firearms carry laws result in chaos? No. Consider the case of Florida. A citizen in the Sunshine Sta

\* During the first fifteen years that the Florida law was in effect, alligator attacks outpaced the number of

\* And even the 155 "crimes" committed by concealed carry permit holders are somewhat misleading as

\* Concealed Carry v. Waiting Period Laws. In 1976, both Georgia and Wisconsin tried two different appr

## **C. Criminals avoid armed citizens**

- \* Kennesaw, GA. In 1982, this suburb of Atlanta passed a law requiring heads of households to keep at least one handgun in the home.
- \* Ten years later (1991), the residential burglary rate in Kennesaw was still 72% lower than it had been in 1982.
- \* Nationwide. Statistical comparisons with other countries show that burglars in the United States are far more likely to be deterred by the presence of a firearm than in other countries.
- \* Homeowner occupancy rate in the gun control countries of Great Britain, Canada and Netherlands: 45%.
- \* Homeowner occupancy rate in the United States: 12.7%.(39)

## **Rapes averted when women carry or use firearms for protection**

- \* Orlando, FL. In 1966-67, the media highly publicized a safety course which taught Orlando women how to use a firearm for protection.
- \* Nationwide. In 1979, the Carter Justice Department found that of more than 32,000 attempted rapes, 3% were averted when the victim was armed.

## **Justice Department study:**

- \* 3/5 of felons polled agreed that "a criminal is not going to mess around with a victim he knows is armed."
- \* 74% of felons polled agreed that "one reason burglars avoid houses when people are at home is that they are armed."

\* 57% of felons polled agreed that "criminals are more worried about meeting an armed victim than they

### **D. Police cannot protect—and are not required to protect—every individual**

\* The courts have consistently ruled that the police do not have an obligation to protect individuals, only

\* Former Florida Attorney General Jim Smith told Florida legislators that police responded to only about

\* The Department of Justice found that in 1989, there were 168,881 crimes of violence which were not r

\* The numbers clearly show that the police cannot protect every individual. In 1996, there were about 15

## **3. Failure of Gun Control**

### **A. Poor track record**

\* Washington, D.C. has, perhaps, the most restrictive gun control laws in the country, and yet it is frequ

\* Objection: Critics claim criminals merely get their guns in Virginia where the laws are more relaxed. Th

\* Answer: Perhaps criminals do get their guns in Virginia, but this overlooks one point: If the availability o

City	Murder rates: 25 years after DC's ban
Washington, DC	46.4 per 100,000(50)
Arlington, VA	2.1 per 100,000(51)
(Arlington is just across the river from D.C.)	
Total VA metropolitan area	6.1 per 100,000(52)

\* Guns are not the problem. On the contrary, lax criminal penalties and laws that disarm the law-abiding are responsible for giving criminals a safer working environment.

### B. Criminologists turning from anti-gun position

\* Dr. Gary Kleck. A criminologist at Florida State University, Kleck began his research as a firm believer in gun control. But in a speech delivered to the National Research Council, he said while he was once "a believer in the 'anti-gun' thesis," he has now moved "beyond even the skeptic position." Dr. Kleck now says the evidence "indicates that general gun availability does not measurably increase rates of homicide, suicide, robbery, assault, rape, or burglary in the U.S."(53)

\* James Wright. Formerly a gun control advocate, Wright received a grant from President Carter's Justice Department to study the effectiveness of gun control laws. To his surprise, he found that waiting periods, background checks, and all other gun control laws were not effective in reducing violent crime.(54)

\* Wright says that at one time, "It seemed evident to me, we needed to mount a campaign to resolve the crisis of handgun proliferation." But he says, "I am now of the opinion that a compelling case for 'stricter gun control' cannot be made."(55)

\* Every scholar who has "switched" has moved away from the anti-gun position. Dave Kopel, an expert in constitutional issues and firearms research, categorically states that, "Every scholar who has 'switched' has 'switched' to the side that is skeptical of controls. Indeed, most of the prominent academic voices who are gun control skeptics—including law professor Sanford

Levinson and criminologists Gary Kleck and James Wright—are people who, when they began studying guns, were supporters of the gun control agenda."(56)

\* Kopel continues: "I do not know of a single scholar who has published a pro-control article who started out as a skeptic of gun control. This suggests how heavily the weight of the evidence is distributed, once people begin studying the evidence."(57)

## **4. Problems with waiting periods and background checks**

### **A. Waiting periods threaten the safety of people in imminent danger**

\* Bonnie Elmasri—She inquired about getting a gun to protect herself from a husband who had repeatedly threatened to kill her. She was told there was a 48 hour waiting period to buy a handgun. But unfortunately, Bonnie was never able to pick up a gun. She and her two sons were killed the next day by an abusive husband of whom the police were well aware.(58)

\* Marine Cpl. Rayna Ross—She bought a gun (in a non-waiting period state) and used it to kill an attacker in self-defense two days later.(59) Had a 5-day waiting period been in effect, Ms. Ross would have been defenseless against the man who was stalking her.

\* Los Angeles riots—USA Today reported that many of the people rushing to gun stores during the 1992 riots were "lifelong gun-control advocates, running to buy an item they thought they'd never need." Ironically, they were outraged to discover they had to wait 15 days to buy a gun for self-defense.(60)

### **B. Prior restraints on rights are unconstitutional**

#### **1. Second Amendment protects an individual right**

Report by the U.S. Senate Subcommittee on the Constitution (1982)—"The conclusion is thus inescapable that the history, concept, and wording of the second amendment to the Constitution of the United States, as well as its interpretation by every major commentator and court in the first half-century after its ratification, indicates that what is protected is an individual right of a private citizen to own and carry firearms in a peaceful manner."(61)

Supreme Court admits "the people" in the Second Amendment are the same "people" as in the rest of the Bill of Rights—In U.S. v. Verdugo-Urquidez the Court stated that "'the people' seems to have been a term of art employed in select parts of the Constitution. . . . [and] it suggests that 'the people' protected by the Fourth Amendment, and by the First and Second Amendments, and to whom rights and powers are reserved in the Ninth and Tenth Amendments, refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country to be considered part of that community."(62)

## **2. Courts agree that rights should be free from prior restraints**

Near v. Minnesota—In this case, the Supreme Court stated that government officials should punish the abuse of a right and not place prior restraints on the exercise of the right.(63)

What about yelling "Fire" in a crowded theater?—The courts have stated that one cannot use his "freedom of speech" to yell "Fire" in a crowded theater. And yet, no one argues that officials should gag everyone who goes into the theater, thus placing a prior restraint on movie-goers. The proper response is to punish the person who does yell "Fire." Likewise, citizens should not be "gagged" before exercising their Second Amendment rights, rather they should be punished if they abuse that right.

## **C. Background checks invite official abuse**

\* A review of FBI computer records reveals that the firearms industry was shut down for more than eight full business days during the first six months that the National Instant Background Check (NICS) was online. Many of these shutdowns have resulted in the virtual blackout of gun sales at gun shows across the country.



\* According to gun laws expert Alan Korwin, "With the NICS computer out of commission, the only place you could legally buy a firearm—in the whole country—was from a private individual, since all dealers were locked out of business by the FBI's computer problem."(64)

### **D. Background checks can (and do) lead to gun registration**

\* Justice Department report (1989). "Any system that requires a criminal history record check prior to purchase of a firearm creates the potential for the automated tracking of individuals who seek to purchase firearms."(65)

\* Justice Department initiates registration (1994). The Justice Department gave a grant to the city of Pittsburgh and Carnegie Mellon University to create a sophisticated national gun registry using data compiled from states' background check programs. This attempt at registration was subsequently defeated in the courts.(66)

\* More gun owner registration (1996). Computer software distributed by the Justice Department allowed police officials to easily (and unlawfully) register the names and addresses of gun buyers. This software -- known as FIST -- also kept information such as the type of gun purchased, the make, model and caliber, the date of purchase, etc.(67) This demonstrates how easily background checks can be used to register gun owners' information.(68)

\* Federal Bureau of Investigation registers gun owners (1998). Despite prohibitions in federal law, the FBI announced that it would begin keeping gun buyer's names for six months. FBI had originally wanted to keep the names for 18 months, but reduced the time period after groups like Gun Owners of America strongly challenged the legality of their actions. GOA submitted a formal protest to the FBI, calling their attempt at registration both "unlawful" and "unconstitutional."(69)

\* California. State officials have used the state background check—required during the waiting period—to compile an illegal registry of handgun owners. These lists have been compiled without any statutory authority to do so.(70)

\* Nationwide. Highly acclaimed civil rights attorney, researcher and author, David Kopel, has noted several states where either registration lists have been illegally compiled from background checks or where such registration lists have been abused by officials.(71)

### **E. Myth: The Brady registration law is dropping crime rates**

\* Fact: Anti-gun journal pronounces the failure of the Brady law. One of the nation's leading anti-gun medical publications, the Journal of the American Medical Association, found that the Brady registration law has failed to reduce murder rates. In August 2000, JAMA reported that states implementing waiting periods and background checks did "not [experience] reductions in homicide rates or overall suicide rates."(72)

\* Fact: Brady checks are not taking criminals off the streets. Not every person who is denied a firearm is truly a criminal, as many persons have been denied erroneously. But even assuming each denial was legitimate, the Brady law is still not taking criminals off the streets (and thus keeping them from getting firearms).

The Washington Times reported in 1999 that, "Although federal officials say about 400,000 persons have been prevented from buying guns by the instant check system, only one has been prosecuted by the Department of Justice in the last three years."(73)

\* Fact: The Brady law has NOT stopped thugs like Benjamin Smith from going on killing sprees. In 1999, Benjamin Smith was rejected by a background check when he tried to buy a firearm from an Illinois gun dealer. But after this initial rejection, "he hit the streets and in just three days had two handguns" from an illegal source, reported the Associated Press. Three days after getting the guns, Smith went on a rampage that killed two people and wounded nine others.

\* Fact: The Brady Law is not physically keeping criminals from getting firearms. The simple truth is that any person who's denied a firearm can simply walk out the door and buy a gun down the street. Ohio's Attorney General, Betty Montgomery, testified to this very irony in the law in 1997:

"In 1996, 60,037 people went to licensed gun dealers to purchase handguns. Of that figure,

327—less than one half of one percent—were denied because of a disqualifying factor. . . . [W]hile we were able to keep 327 people from getting a handgun at point A—each of them was able to purchase a rifle or handgun the very same day at point B. To our knowledge, under the Brady Act, not a single one of the 327 people . . . have been prosecuted by the U.S. Justice Department."(74)

\* Criminals bypass gun controls. A Justice Department survey of felons showed that 93% of handgun predators had obtained their most recent guns "off-the-record."(75) And press reports show that the few criminals who get their guns from retail outlets can easily get fake IDs or use surrogate buyers, known as "straw purchasers," to buy their guns.(76)

\* Legal gun shows are not a problem. Some have demonized gun shows and claimed that these are the outlets where criminals supposedly get their weapons. But the Clinton Justice Department found that less than two percent of the people arrested for using firearms in homicide got their weapons from gun shows.(77)

\* Fact: The Department of Justice has grossly overstated the number of people who were denied firearms. The Indianapolis Star and News reported in 1998 that the U.S. Department of Justice had overstated the number of people who were denied firearms in Indiana alone by more than 1,300%. Indiana was not an aberration, as the newspaper found that "paperwork errors and duplications inflated the [DOJ's] numbers" in many states.(78)

## **F. General Accounting Office questions the Brady law's supposed effectiveness**

\* The Brady Law has failed to result in the incarceration of dangerous criminals. After the first year and a half, there were only seven successful prosecutions for making false statements on Brady handgun purchase forms—and only three of them were actually incarcerated.(79) Because the situation hardly improved in subsequent years, one cannot argue that the law is working to keep violent criminals from getting handguns on the street.(80)

\* The Brady Law has ERRONEOUSLY denied firearms to thousands of applicants. Over fifty percent of denials under the Brady Law are for administrative snafus, traffic violations, or reasons other than felony convictions.(81)

\* Gun control advocates admit the Brady Law is not a panacea. According to a January, 1996 report by the General Accounting Office, "Proponents [of gun control] acknowledge that criminal records checks alone will not prevent felons from obtaining firearms."(82)

\* Criminals can easily evade the background checks by using straw purchasers: "Opponents of gun control note that criminals can easily circumvent the law by purchasing handguns on the secondary market or by having friends or spouses without a criminal record make the purchases from dealers."(83)

## **5. Problems with gun registration and licensing**

### **A. Licensing or registration can lead to confiscation of firearms**

#### **1. New York City**

\* Registration. In the mid-1960's officials in New York City began registering long guns. They promised they would never use such lists to take away firearms from honest citizens. But in 1991, the city banned (and soon began confiscating) many of those very guns.(84)

\* Confiscation. 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]."(85)

#### **2. California**

Part 1. The Golden State passed a ban on certain semi-automatic firearms in 1989. Banned

guns could be legally possessed if they were registered prior to the ban. In the Spring of 1995, one man who wished to move to California asked the Attorney General whether his SKS Sporter rifle would be legal in the state. The citizen was assured the rifle was legal, and based on that information, he subsequently moved into the state. But in 1998, the state's Attorney General reversed course and officials confiscated the firearm.(86) In a legal brief before the state supreme court, Attorney General Daniel Lungren said that "tens of thousands of California citizens" would have to either surrender their firearms or become felons.(87)

Part 2. Having registered the firearms, the California Department of Justice issued a notice in 1999 to explain how more than 1,500 individuals in the state were in possession of illegal firearms—all of which were subject to forfeiture without compensation.(88)

Part 3. Plans to confiscate firearms in California were leaked to the public in 1999, sending shock waves through the gun rights community. The document entitled "Relinquishment of Assault Weapons" stated: "Once the 90-day window of opportunity for turning in such assault weapons concludes, we will send each sheriff and police chief a listing of the affected individuals [who own banned firearms]."(89)

### 3. Foreign Countries

\* Gun registration has led to confiscation in several countries, including Greece, Ireland, Jamaica and Bermuda.(90)

\* And in an exhaustive study on this subject, Jews for the Preservation of Firearms Ownership has researched and translated several gun control laws from foreign countries. Their publication, *Lethal Laws: "Gun Control" is the Key to Genocide* documents how gun control (and confiscation) has preceded the slaughter and genocide of millions of people in Turkey, the Soviet Union, Germany, China, Cambodia and others.(91)

### **B. People in imminent danger can die waiting for a firearms license**

\* Igor Hutorsky was murdered by two burglars who broke into his Brooklyn furniture store. The

tragedy is that some time before the murder his business partner had applied for permission to keep a handgun at the store. Even four months after the murder, the former partner had still not heard from the police about the status of his gun permit.(92)

### **C. The power to license a right is the power to destroy a right**

\* Arbitrary Delays—While New Jersey law requires applications to be responded to within thirty days, delays of ninety days are routine; sometimes, applications are delayed for several years for no readily apparent reason.(93)

\* Arbitrary Denials—Officials in New York City routinely deny gun permits for ordinary citizens and store owners because, as the courts have ruled, they have no greater need for protection than anyone else in the city. In fact, the authorities have even refused to issue permits when the courts have ordered them to do so.(94)

\* Arbitrary Fee Increases—In 1994, the Clinton administration pushed for a license fee increase of almost 1,000 percent on gun dealers. According to U.S. News & World Report, the administration was seeking the license fee increase "in hopes of driving many of America's 258,000 licensed gun dealers out of business."(95)

### **D. Officials cannot license or register a constitutional right**

\* The Supreme Court held in *Lamont v. Postmaster General* (1965) that the First Amendment prevents the government from registering purchasers of magazines and newspapers—even if such material is "communist political propaganda."(96)

## **6. Assault weapons: fact or fiction?**

### **A. Definition of real "assault weapons"**

\* According to one of the preeminent experts in the field of firearms, Dr. Edward Ezell,(97) a key characteristic of a true assault weapon is that it must have the capability of "full automatic fire."(98) Similarly, the U.S. Defense Department defines real assault weapons as "selective-fire weapons"—meaning that these guns can fire either automatically or semi-automatically.(99)

\* Anti-gun pundits in recent years have managed to define "assault weapons" as semi-automatic firearms which only externally resemble a military firearm.(100) Dr. Edward Ezell notes that true assault weapons "were designed to produce roughly aimed bursts of full automatic fire"(101)—something which a semi-automatic firearm does not do.

### **B. Semi-automatic "assault rifles" are no different than many hunting rifles**

\* Officer William McGrath: "These [semi-automatic assault rifles] are little different than the semi-automatic hunting rifles that have been on the market since before World War II. The main difference between an assault rifle and a semi-automatic hunting rifle is that the assault rifle looks more 'military.'"(102)

\* "The term 'assault' rifle is really a misnomer as a true assault rifle is a selective fire weapon capable of switching from fully automatic to semi automatic and back with the flip of a lever."(103)

\* "The charge that the assault rifle holds more rounds than a 'legitimate' hunting rifle shows either a lack of knowledge or a deliberate twisting of the facts, as 10, 20 and 30 round magazines for 'legitimate' hunting rifles have been on the market for decades without the world coming to an end."(104)

### **C. So-called assault weapons have never been the "weapon of choice" for criminals**

(All of the following figures pre-date the "assault weapons" ban passed by Congress in 1994)

\* Police View: Over 100,000 police officers delivered a message to Congress in 1990 stating that only 2% to 3% of crimes are committed using a so-called "assault weapon."(105)

\* New Jersey: The New York Times reported that, "Although New Jersey's pioneering ban on military-style assault rifles was sold to the state as a crime-fighting measure, its impact on violence in the state . . . has been negligible, both sides agree."(106) Moreover, New Jersey police statistics show that only .026 of 1 percent of all crimes involve "assault rifles."(107)

\* Nationwide: The Bureau of Justice Statistics reported in 1993 that violent criminals only carry or use a "military-type gun" in about one percent of the crimes nationwide.(108)

\* Knives more deadly: According to the FBI, people have a much greater chance of being killed by a knife or a blunt object than by any kind of rifle, including an "assault rifle." (109) In Chicago, the chance is 67 times greater. That is, a person is 67 times more likely to be stabbed or beaten to death in Chicago than to be murdered by an "assault rifle." (110)

\* Cops' own guns more deadly: So-called assault weapons are not menacing police officers nationwide. The FBI reports show that before the 1994 ban on semi-automatic "assault weapons," no more than three officers were killed in any one year by such guns. (111) Contrastly, police officers were more than three times as likely to be killed by their own guns than by "assault weapons." (112)

\* It would seem one can't have it both ways. If Congress wants to ban weapons that are dangerous to police, then it should begin by pushing for a ban on police officers' own weapons, since these guns kill far more often than "assault weapons." The same is true with knives and blunt objects. These instruments kill policemen more often than semi-automatic "assault weapons." (113)

\* Sarah Brady's own figures show that so-called assault weapons are not the criminal's "weapon of choice." A study published by Handgun Control, Inc. in November of 1995 shows that the overwhelming majority of guns used to murder police officers are not "assault weapons." (114) The irony is that HCI used a very inflated definition of "assault weapon" and still could not demonstrate that they are used in over 50% of the crimes. (115)

\* Does tracing of crime guns show that "assault weapons" are the weapons of choice for criminals? No. Gun control advocates will often make the claim that so-called assault weapons are frequently used in crime. To justify this claim, such advocates will cite as "evidence" the fact that law-enforcement run a high percentage of traces on these types of firearms. But this is a classic example of circular reasoning: law enforcement arbitrarily run a high percentage of trace requests on "assault weapons," and then this figure is used to justify the "fact" that these guns are frequently used in crime. Consider the following:

\* Tracing requests are not representative of all guns used in crime. The Congressional Research Service states that, "Firearms selected for tracing do not constitute a random sample and cannot be considered representative of the larger universe of all firearms used by criminals." (116) (Emphasis added.) Moreover, BATF agents themselves have stated that, "ATF does not always know if a firearm being traced has been used in a crime." (117)



\* Tracing requests are not random samples. CRS notes that "ATF tracing data could be potentially biased because of screening conducted by local ATF agents prior to the submission of the tracing form." (118) This means that police could, if they wanted, only trace so-called assault weapons. Would this mean that they are the only guns used in crime? No, it would just mean that law enforcement have a particular interest in tracing "assault weapons" over other guns.

\* Tracing in L.A. That tracing is an unreliable measure of a gun's use in crime is clear. For example, in 1989 in Los Angeles, "assault rifles" represented approximately only 3% of guns seized, but 19% of gun traces. (119)

### **D. Semi-automatic "assault weapons" are excellent for self-defense**

\* Police Capt. Massad Ayoob: "The likelihood of multiple opponents who move fast, often wear body armor, know how to take cover, and tend to ingest chemicals that make them resistant to pain and shock, are all good reasons for carrying guns that throw a whole lot more bullets than six-shooters do." (120) (Emphasis added.)

\* "All four of these factors make it likely that more of the Good Guys' bullets will be expended before the Bad Guys are neutralized. All of these factors, therefore, militate for a higher capacity handgun in the hands of the lawful defenders." (121)

#### **1. Drugs and alcohol can make criminals resistant to pain**

Arkansas: A drunk opened fire on an officer, who responded by firing 29 shots—15 of them striking the criminal. It was only the last bullet which finally killed the drunk and effectively stopped him from shooting. (122)

Illinois: Police shot a drug-induced criminal 33 times before the junkie finally dropped and was unable to shoot any longer. (123)

## **2. Hi-capacity semi-autos can help decent people to defend themselves**

Los Angeles riots: Many of the guns targeted by so-called assault weapons bans are the very guns with which the Korean merchants used to defend themselves during the 1992 Los Angeles riots.(124) Those firearms proved to be extremely useful to the Koreans. Their stores were left standing while other stores around them were burned to the ground.

The Korean merchants would probably agree with Capt. Massad Ayoob. When one is facing mob violence and the police are nowhere to be found, one needs a gun that shoots more than just six bullets. A ban on large capacity semi-automatic firearms will only harm one's ability to defend himself and his family.

## **E. The Second Amendment protects an individual's right to own military rifles and handguns**

\* Report by the U.S. Senate Subcommittee on the Constitution (1982)—"In the Militia Act of 1792, the second Congress defined 'militia of the United States' to include almost every free adult male in the United States. These persons were obligated by law to possess a [military-style] firearm and a minimum supply of ammunition and military equipment. . . . There can be little doubt from this that when the Congress and the people spoke of the a 'militia,' they had reference to the traditional concept of the entire populace capable of bearing arms, and not to any formal group such as what is today called the National Guard."(125)

\* The Supreme Court—In U.S. v. Miller, the Court stated that, "The Militia comprised all males physically capable of acting in concert for the common defense . . . [and that] when called for service, these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time."(126)

# **7. Firearms statistics**

## **A. General Death Rates**

## GUN CONTROL FACT-SHEET (2004) - Gun Owners of America

Written by Administrator

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Cause	Number
Heart disease	710,760
Cancer	553,091
Stroke (cerebrovascular disease)	167,661
Chronic lower respiratory diseases	122,009
Doctor's negligence	98,329
Influenza and pneumonia	65,313
Motor-vehicle	43,354
Suicides (all kinds, including firearms)	29,350
Firearms (Total)*	

Suicides  
Homicides  
Accidents

16,586  
10,801  
776

28,163

Accidents (six causes)

Falls  
Poison (solid, liquid)  
Choking on food or other object  
Drowning  
Fires, flames  
Firearms

13,322  
12,757  
4,313  
3,402  
3,377  
776

Homicides (all instruments) 16,765

Source: Except for the figure on doctor's negligence, the above information is for 2000 and is taken from the FBI's Uniform Crime Reports.

\*The total firearms death figure above is a summary of the "Suicides," "Homicides" and "Accidents" subcategories.

## B. Children Accidental Death Rates (Ages 0-14)

Cause	Number (Ages 0-14)	Number (Ages 0-4)
Motor-vehicle	2,591	819
Drowning	943	568
Fires and flames	593	327
Mechanical suffocation	601	508
Ingestion of food, object*	169	169
Firearms	86	19

000. National Safety Council, Injury Facts: 2003 Edition, at 10-11, 129.

rrported in the first column since the NSC did not include death rates for "5 to 14 Years."

## C. Children and Guns

\*Fact: Accidental gun deaths among children have declined by over 50 % in 25 years, even though the population (and the gun stock) has continued to increase.(128)

\* Fact: Despite the low number of gun accidents among children (see above), most of these fatalities are not truly "accidents." According to Dr. Gary Kleck, many such accidents are misnamed—those "accidents" actually resulting from either suicides or extreme cases of child abuse.(129)

\* Dr. Kleck also notes that, "Accidental shooters were significantly more likely to have been arrested, arrested for a violent act, arrested in connection with alcohol, involved in highway crashes, given traffic citations, and to have had their driver's license suspended or

revoked."(130)

\* Myth: One child is accidentally killed by a gun every day. Dr. Gary Kleck notes that to reach this figure, anti-gun authors must include "children" aged 18-24.(131) As noted above, there were only 142 fatal gun accidents for children in 1997.

\* Myth: 135,000 children take guns to school every day. This factoid was based on a survey that did not even ask children if they carried a weapon to school. The "take guns to school" statement is completely imputed into the survey results. With regard to the 135,000 figure, Dr. Gary Kleck has shown that this number is wildly inflated.(132)

\* Myth: Children gun deaths are at epidemic proportions.

Fact: Twice as many children are killed playing football in school than are murdered by guns. That's right. Despite what media coverage might seem to indicate, there are more deaths related to high school football than guns. In the last three years, twice as many football players died from hits to the head, heat stroke, etc. (45), as compared with students who were murdered by firearms (22) during that same time period.(133)

Fact: More children will die in a car, drown in a pool, or choke on food than they will by firearms. As seen by the chart above, children are at a 2,000 percent greater risk from the car in their driveway, than they are by the gun in their parents' closet. Children are almost 7 times more likely to drown than to be shot, and they are 130 percent more likely to die from choking on their dinner.(134)

\* Myth: There are more guns in schools today because of lax gun control laws. To the contrary, two facts put this myth to rest:

Fact: Currently, there are strict laws that, with few exceptions, prevent adults from possessing a firearm within 1,000 feet of a school. These and other gun control laws have failed to keep guns off school grounds.

Fact: In the past, "guns in schools" were never a problem during the era when children had the greatest access to firearms. For example, even though there were far fewer gun control laws on the books in the 1950's, there was not a problem with illegal guns in schools. Rather, the top problems in American classrooms during that era were such (non-violent) activities as chewing gum, talking in class and running in the halls.

\* More on guns in schools. So what has changed? Why do illegal guns make their way onto school grounds today, even though federal gun control laws have now grown to comprise more than 88,000 words of restrictions and requirements?(135) There are several possible reasons, including:

a. Lax punishment of juvenile children. Several state studies have shown that juvenile offenders will make several journeys through the legal system before doing any time in a penal facility.(136) This problem, of course, is not just limited to juveniles. A murderer of any age (in 1990) could expect to serve only 1.8 years in prison, after one considers the risk of apprehension and the length of the sentence.(137)

b. Imitation of T.V. violence. Before completing the sixth grade, the average American child sees 8,000 homicides and 100,000 acts of violence on television.(138) Two surveys of young American males found that 22 to 34 percent had tried to perform crime techniques they had watched on television.(139)

c. Morality shift. "The kids have changed," says Judge Gaylord Finch, speaking with the help of a dozen years of observation from his bench, where he sits as chief judge of Juvenile and Domestic Relations District Court. "The values have just become so relative, and it sometimes seems we have no values in common anymore."(140)

### **D. Women and Guns**

\* At least 17 million women own firearms in the United States.(141) And according to the National Research Opinion Center, 44 percent of adult women either own or have access to firearms.(142)

\* As many as 561 times a day, women use guns to protect themselves against sexual assault.(143)

\* In 89.6% of violent crimes directed against women, the offender does not have a gun; and only 10% of rapists carry a firearm.(144) Thus, armed women will usually have a decided advantage against their attackers.

\* A man can kill a woman with whatever he has at hand, but she can usually only resist him successfully with a gun. Don Kates, a civil rights attorney who specializes in firearms issues, cites a Detroit study showing that three-quarters of wives who killed their spouses were not even charged, since prosecutors found their acts necessary to protect their lives or their children's lives.(145)

## 8. Eight Common Gun Control Myths

**A. Myth #1: If one has a gun in the home, one is three times more likely to be killed than if there is no gun present.**

1. Fact: Guns are used more often to save life. Dr. Edgar Suter has pointed out that studies which make the claim that guns are more likely to kill the owner are flawed because they fail to consider the number of lives saved by guns.(146) That is, such claims ignore the vast number of non-lethal defensive uses with firearms. Criminologists have found that citizens use firearms as often as 2.5 million times every year in self-defense. In over 90% of these defensive uses, citizens merely brandish their gun or fire a warning shot to scare off the attacker.(147)

2. Fact: A study claiming "guns more likely to kill you than help you" is a total fraud. Not surprisingly, the figure claiming one is three times more likely to be killed by one's own gun is a total lie. The author of this study, Dr. Arthur Kellerman, refused to release the data behind his conclusions for years.(148) Subsequently available evidence shows why Kellerman stonewalled for so long:

\* Researcher Don Kates reveals that all available data now indicates that the "home gun homicide victims [in Kellerman's study] were killed using guns not kept in the victim's home." In other words, the victims were NOT murdered with their own guns! They were killed "by intruders who brought their own guns to the victim's household."(149)

\* In retrospect, Kates found, it was not the ownership of firearms that put these victims at high risk. Rather, it was the victim's "high-risk life-styles [such as criminal associations] that caused them to own guns at higher rates than the members of the supposedly comparable control group."(150)

### **B. Myth #2: Most homicides are committed by otherwise law-abiding people who end up killing a friend or relative.**

1. While most murders do involve the killing of an acquaintance, it is fallacious to assume these are otherwise law-abiding people killing one another. In fact, sixty-one percent of murder victims themselves—and an even greater majority of murderers—have prior criminal records.(151) This indicates that most murders occur between criminals who have already demonstrated a pattern of violence.

2. The problem? The criminal justice system is a revolving door which continues to throw violent offenders back onto the street. Nationwide, 70% of murderers (under sentence of death) have prior felony convictions.(152) This number does not include criminals who have plea-bargained their felonies down to lesser charges.

### **C. Myth #3: Gun Control has reduced the crime rates in other countries.**

1. The murder rates in many nations (such as England) were ALREADY LOW BEFORE enacting gun control. Thus, their restrictive laws cannot be credited with lowering their crime rates.(153)



2. Gun control has done nothing to keep crime rates from rising in many of the nations that have imposed severe firearms restrictions.

\* Australia: Readers of the USA Today newspaper discovered in 2002 that, "Since Australia's 1996 laws banning most guns and making it a crime to use a gun defensively, armed robberies rose by 51%, unarmed robberies by 37%, assaults by 24% and kidnappings by 43%. While murders fell by 3%, manslaughter rose by 16%."(154)

\* Canada: After enacting stringent gun control laws in 1991 and 1995, Canada has not made its citizens any safer. "The contrast between the criminal violence rates in the United States and in Canada is dramatic," says Canadian criminologist Gary Mauser in 2003. "Over the past decade, the rate of violent crime in Canada has increased while in the United States the violent crime rate has plummeted."(155)

\* England: According to the BBC News, handgun crime in the United Kingdom rose by 40% in the two years after it passed its draconian gun ban in 1997.(156)

\* Japan: One newspaper headline says it all: Police say "Crime rising in Japan, while arrests at record low." (157)

3. British citizens are now more likely to become a victim of crime than are people in the United States:

\* In 1998, a study conducted jointly by statisticians from the U.S. Department of Justice and the University of Cambridge in England found that most crime is now worse in England than in the United States.

\* "You are more likely to be mugged in England than in the United States," stated the Reuters news agency in summarizing the study. "The rate of robbery is now 1.4 times higher in England and Wales than in the United States, and the British burglary rate is nearly double America's."(158) The murder rate in the United States is reportedly higher than in England, but according to the DOJ study, "the difference between the [murder rates in the] two countries has

narrowed over the past 16 years."(159)

\* The United Nations confirmed these results in 2000 when it reported that the crime rate in England is higher than the crime rates of 16 other industrialized nations, including the United States.(160)

4. British authorities routinely underreport murder statistics. Comparing statistics between different nations can be quite difficult since foreign officials frequently use different standards in compiling crime statistics.

\* The British media has remained quite critical of authorities there for "fiddling" with crime data. Consider some of the headlines in their papers: "Crime figures a sham, say police,"(161) "Police are accused of fiddling crime data,"(162) and "Police figures under-record offences by 20 percent."(163)

\* British police have also criticized the system because of the "widespread manipulation" of crime data:

a. "Officers said that pressure to convince the public that police were winning the fight against crime had resulted in a long list of ruses to 'massage' statistics."(164)

b. Sgt. Mike Bennett says officers have become increasingly frustrated with the practice of manipulating statistics. "The crime figures are meaningless," he said. "Police everywhere know exactly what is going on."(165)

c. According to The Electronic Telegraph, "Officers said the recorded level of crime bore no resemblance to the actual amount of crime being committed."(166)

\* Underreporting crime data: "One former Scotland Yard officer told The Telegraph of a series of tricks that rendered crime figures 'a complete sham.' A classic example, he said, was where

a series of homes in a block of flats were burgled and were regularly recorded as one crime. Another involved pickpocketing, which was not recorded as a crime unless the victim had actually seen the item being stolen."(167)

\* Underreporting murder data: British crime reporting tactics keep murder rates artificially low. "Suppose that three men kill a woman during an argument outside a bar. They are arrested for murder, but because of problems with identification (the main witness is dead), charges are eventually dropped. In American crime statistics, the event counts as a three-person homicide, but in British statistics it counts as nothing at all. 'With such differences in reporting criteria, comparisons of U.S. homicide rates with British homicide rates is a sham,' [a 2000 report from the Inspectorate of Constabulary] concludes."(168)

5. Violence by any other name is still violent -- Many countries with strict gun control laws have violence rates that are equal to, or greater than, that of the United States. Consider the following rates:

High Gun

Ownership Countries

Low Gun

Ownership Countries

Country

Suicide

## GUN CONTROL FACT-SHEET (2004) - Gun Owners of America

Written by Administrator

Friday, 19 September 2008 03:14

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Homicide

Total\*

Country

Suicide

Homicide

Total\*

Switzerland

21.4

2.7

24.1

Denmark

22.3

4.9

27.2

## GUN CONTROL FACT-SHEET (2004) - Gun Owners of America

Written by Administrator

Friday, 19 September 2008 03:14

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U.S.

11.6

7.4

19.0

France

20.8

1.1

21.9

Israel

6.5

1.4

7.9

Japan\*\*

16.7

0.6

17.3

\* The figures listed in the table are the rates per 100,000 people.

\*\* Suicide figures for Japan also include many homicides.

Source for table: U.S. figures for 1996 are taken from the Statistical Abstract of the U.S. and FBI Uniform Crime Reports. The rest of the table is taken from the UN 1996 Demographic Yearbook (1998), cited at <http://www.haciendapub.com/stolinsky.html>.

6. The United States has experienced far fewer TOTAL MURDERS than Europe over the last 70 years. In trying to claim that gun-free Europe is more peaceful than America, gun control advocates routinely ignore the overwhelming number of murders that have been committed in Europe.

\* Over the last 70 years, Europe has averaged about 400,000 murders per year, when one includes the murders committed by governments against mostly unarmed people.(169) That murder rate is about 16 times higher than the murder rate in the U.S.(170)

\* Why hasn't the United States experienced this kind of government oppression? Many reasons could be cited, but the Founding Fathers indicated that an armed populace was the best way of preventing official brutality. Consider the words of James Madison in Federalist 46:

Let a regular army, fully equal to the resources of the country, be formed; and let it be entirely at the devotion of the federal government; still it would not be going too far to say, that the State governments, with the people on their side, would be able to repel the danger . . . a militia amounting to near half a million of citizens with arms in their hands.(171)

**D. Myth #4: Recent gun control laws have reduced the U.S. murder rate.**

1. Murder rate was already decreasing before Brady and semi-auto gun ban passed. Those who claim that the two gun control laws enacted in 1994 have reduced the murder rate ignore the fact that the U.S. murder rate has been decreasing from the high it reached in 1991.(172) Thus, the murder rate had already begun decreasing two to three years before the Brady law and the semi-auto gun ban became law.

2. Murder rate decrease results from fewer violent youths. The Democratic Judiciary Committee noted in 1991 that, "An analysis of the murder tolls since 1960 offers compelling evidence of the link—the significant rise of murder in the late 1960's, and the slight decrease in murder in the early 1980's follows from an unusually large number of 18-24 year-olds in the general population. This age group is the most violent one, as well as the group most likely to be victimized—and the murder figures ebb and flow with their ranks."(173) (Emphasis added.)

3. According to the Clinton Justice Department, crime has decreased even while the number of guns increased. The Bureau of Justice Statistics, the research arm of the Justice Department, reported in 2000 that while the number of firearms in circulation rose nearly 10% during a recent five-year period, gun-related deaths and woundings dropped(174) 33%.

4. Concealed carry laws have dropped murder and crime rates in the states that have enacted them. According to a comprehensive study which studied crime statistics in all of the counties in the United States from 1977 to 1992, states which passed concealed carry laws reduced their murder rate by 8.5%, rapes by 5%, aggravated assaults by 7% and robbery by 3%.(175)

**E. Myth #5: The Courts have never overturned a gun control law, and thus, there is no individual right guaranteed by the Second Amendment.**

**1. U.S. Senate Subcommittee Report (1982)**

Written by Administrator  
Friday, 19 September 2008 03:14

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\* Courts have used the Second Amendment to strike down gun control: Nunn v. State and in re Brickey are just two examples where the Courts have struck down gun control laws using the Second Amendment.(176)

\* An individual right protected: "The conclusion is thus inescapable that the history, concept, and wording of the second amendment to the Constitution of the United States, as well as its interpretation by every major commentator and court in the first half-century after its ratification, indicates that what is protected is an individual right of a private citizen to own and carry firearms in a peaceful manner."(177)

### **2. U.S. Supreme Court**

\* U.S. v. Verdugo-Urquidez (1990). "'The people' seems to have been a term of art employed in select parts of the Constitution. . . . [and] it suggests that 'the people' protected by the Fourth Amendment, and by the First and Second Amendments, and to whom rights and powers are reserved in the Ninth and Tenth Amendments, refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country to be considered part of that community."(178)

\* U.S. v. Lopez (1995). The Court struck down a federal law which prevented the possessing of firearms within 1,000 feet of a school. The Court argued that the Commerce Clause of the Constitution in no way grants Congress the authority to enact such gun control legislation.(179)

\* Printz v. U.S. (1997). The Supreme Court ruled the federal government could not force state authorities to conduct so-called Brady background checks on gun buyers.(180)

\* Majority of the Supreme Court cases clearly point to an individual right. In a mammoth work produced January 2004, three authors reprinted and analyzed the dozens of Supreme Court cases that have referenced the Second Amendment. Their conclusion? "These cases suggest that the Justices of the Supreme Court do now and usually have regarded the Second Amendment 'right of the people to keep and bear arms' as an individual right, rather than as a right of state governments."(181)

### **3. U.S. Congress:**



### **Fourteenth Amendment (1868):**

\* The framers of the 14th Amendment intended to protect an individual's Second Amendment right to keep and bear arms by striking down state laws that denied this right. As stated by a Senate subcommittee in 1982, "[During] the debates over the Fourteenth Amendment, Congress frequently referred to the Second Amendment as one of the rights which it intended to guarantee against state action."(182)

### **Firearm Owners' Protection Act (1986):**

\* The 1986 Law affirms individual right to keep and bear arms: "The Congress finds that the right of citizens to keep and bear arms under the second amendment to the United States Constitution . . . require[s] additional legislation to correct existing firearms statutes and enforcement policies."(183) [Emphasis added.]

4. Nothing in Article I, Section 8 of the U.S. Constitution authorizes Congress to pass gun control legislation (see U.S. v. Lopez, 1995). Since the adoption of the Constitution, courts have ruled on both sides of the issue, indicating that judges are just as political as the common man.

### **F. Myth #6: The Second Amendment militia is the National Guard.**

The Founding Fathers made it clear that the Militia was composed of the populace at large. Both the Congress and Supreme Court have affirmed this definition of the Militia.

#### **1. Founding Fathers**

\* George Mason: "I ask, who are the militia? They consist now of the whole people, except a few public officers."(184)

\* Virginia Constitution, Art. I, Sec. 13 (1776): "That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free State; that standing armies, in time of peace, should be avoided, as dangerous to liberty. . . ."

\* Richard Henry Lee: "To preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, especially when young, how to use them . . . . The mind that aims at a select militia [like the National Guard], must be influenced by a truly anti-republican principle."(185)

## 2. U.S. Congress

\* The Militia Act of 1792. One year after the Second Amendment was added to the Constitution, Congress passed a law defining the militia. The Militia Act of 1792 declared that all free male citizens between the ages of 18 and 44 were to be members of the militia. Furthermore, every citizen was to be armed. The Act stated:

"Every citizen . . . [shall] provide himself with a good musket, or firelock, a sufficient bayonet and belt, two spare flints . . . ."(186)

The Militia Act of 1792 made no provision for any type of select militia such as the National Guard.

\* U.S. Senate Subcommittee Report (1982). "In the Militia Act of 1792, the second Congress defined 'militia of the United States' to include almost every free adult male in the United States. These persons were obligated by law to possess a [military-style] firearm and a minimum supply of ammunition and military equipment. . . . There can be little doubt from this that when the Congress and the people spoke of the a 'militia,' they had reference to the traditional concept of the entire populace capable of bearing arms, and not to any formal group such as what is today called the National Guard."(187)

\* Current Federal Law: 10 U.S.C. Sec. 311. "The militia of the United States consists of all able-bodied males at least 17 years of age and . . . under 45 years of age who are, or who have

made a declaration of intention to become, citizens of the United States . . . ."(188)

3. Supreme Court: U.S. v. Miller (1939). In this case, the Court stated that, "The Militia comprised all males physically capable of acting in concert for the common defense . . . [and that] when called for service, these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time."(189)

### **G. Myth #7: Trigger locks will help save lives.**

1. Fact: Locking up firearms can cost lives during a life-threatening situation. Consider two different cases from California.

\* Merced. On the morning of August 23, 2000, Jonathon David Bruce attacked a houseful of kids. Armed with a pitchfork—and without a stitch of clothing on his body—Bruce proceeded to stab the children. Two of them died.

The oldest of the children, Jessica Carpenter (14), was quite proficient with firearms. She had been trained by her father and knew how to use them. There was just one problem: the guns were locked up in compliance with California state law. Unable to use the firearms, Jessica was forced to flee the house to get help. Mr. Bruce's murderous rampage was finally cut short when officers—carrying guns—arrived on the scene.(190)

\* San Francisco. Contrast the Carpenter's tragic situation to that of A.D. Parker. In February 2000, he was awakened by strange noises outside his bedroom in the middle of the night. The 83-year-old Parker grabbed a handgun he had not even used in several decades, went to his bedroom door, and found himself face-to-face with a thug holding a crowbar.

Thankfully, Mr. Parker didn't have to fiddle with a trigger lock, remember a combination, or look for a key in the dark room. He simply pointed the gun and pulled the trigger. That is why he survived the attack.(191)

2. Fact: A trigger lock can be very difficult to remove from a firearm in an emergency. Maryland Governor Parris Glendening struggled for at least two whole minutes to remove a trigger lock at a training session in March 2000.(192) If it can take that long to remove such a lock—when there's only the pressure of being embarrassed in front of the cameras—what will a trigger lock mean for a homeowner who needs to use his or her self-defense gun during an emergency, in the bedroom, in the dark?

3. Fact: The Mafia favors trigger locks—for their victims. Mafia turncoat, Sammy "the Bull" Gravano, expressed his love for gun control in an interview with Vanity Fair: "Gun control? It's the best thing you can do for crooks and gangsters. I want you to have nothing. If I'm a bad guy, I'm always gonna have a gun. Safety locks? You pull the trigger with a lock on, and I'll pull the trigger. We'll see who wins."(193)

#### **H. Myth #8: A majority of Americans favor gun control.**

1. Fact: Biases exist in almost any poll. Those who understand how politics work will realize that many surveys get the "desired result" by asking questions in a certain way. In fact, pollsters such as Harris and Gallup have been severely criticized for designing gun-related questions that will reach a preordained conclusion.(194)

2. Fact: The poll that counts takes place on Election Day. Because of the potential for bias among pollsters, it is often helpful to see how voters respond to specific gun laws AFTER they are enacted. Even more to the point, it is helpful to see how anti-gun candidates have reacted to the elections where gun control was a hot button issue.

Gun rights were the number one issue in Bush's victory over Gore (2000)

a. Gun control views handed Gore a loss in three key Democratic states (Baltimore Sun). "Had Al Gore carried Bill Clinton's home state [Arkansas], his own home state [Tennessee] or what arguably has been the most reliable Democratic state in the country [West Virginia], he'd had been president. But Mr. Gore lost all three. Professionals in both parties think his position on gun control was the reason why."(195)

b. Democratic governors faulted Gore for pushing gun control (The Christian Science Monitor). "A group of Southern Democratic governors recently told reporters that they believed the gun-control issue had hurt Gore in their region [in November of 2000]. 'We like to hunt; we like to fish—and I think there was a perception in the last general election ... that [Gore] was out of step with what most of us thought about that issue,' said Gov. Roy Barnes (D) of Georgia."(196)

c. Gore officials lament how there is little voter "intensity" for gun control:

\* The New Republic Online: Democratic party strategists speak of an "intensity gap." "Guns are a motivating issue for a sizable number of voters on the right, but that's not matched elsewhere on the [left]," laments Gore spokesman Doug Hattaway.(197)

\* USA Today: "We lost a number of voters who on almost every other issue realized they'd be better off with Al Gore," Connecticut Sen. Joe Lieberman, Gore's running mate, says of the gun issue. "They were anxious ... about what would happen if Al was elected. This one matters a lot to people who otherwise want to vote for us."(198)

Gun control caused Democrats to lose their grip on Congress (1994)

a. President Bill Clinton repeatedly blamed gun control (which he supported) as the reason that Democrats lost control of the Congress during the elections of 1994:

\* January 14, 1995. "The fight for the assault-weapons ban cost 20 members their seats in Congress ... [and is] the reason the Republicans control the House."(199)

\* January 24, 1995. "I don't think it's a secret to anybody in this room that several members of the last Congress who voted for [the Brady bill and the semi-auto ban] aren't here tonight because they voted for it. . . . [A] lot of people laid down their seats in Congress."(200)

\* April 27, 1999. "There are some [Democrats] who would be on this platform today who lost

their seats in 1994 because they voted for the Brady Bill and they voted for the assault weapons ban."(201)

\* June 4, 1999. "This Congress came to power after the 1994 elections because in critical races the people who voted for more modest things, like the Brady Bill . . . got beat. They got beat, Charlie."(202) After the 1994 election, Campaigns & Elections magazine documented how the gun issue was a major factor in 55 races where pro-gun challengers beat sitting incumbents.(203)

Voters often support pro-gun positions on initiatives around the country

a. Washington voters shot down a trigger locks initiative by a whopping 71-29% margin in 1997.(204)

b. Wisconsin voters passed a Right to Keep and Bear Arms Constitutional Amendment by a 74-26% margin in 1998.(205)

c. Also in the state of Wisconsin, Milwaukee voters trounced a city-wide handgun ban in 1994. The initiative lost 67-33%.(206)

d. In 1982, California voters rejected (against heavy odds and a hostile media) Proposition 15, a statewide initiative which would have banned the possession of privately owned handguns. The handgun ban lost by a 63-37% margin.(207)

e. Even in liberal Massachusetts, voters overwhelmingly rejected a ban on handguns in 1976. More than 70 percent of voters cast their ballots against the ban.(208)

3. Fact: Several polls show that Americans are still pro-gun. While affirming that the potential for bias exists in any given poll, there are, nevertheless, several scientific polls indicating that the right to keep and bear arms is revered—and gun control disdained—by a majority of Americans

today.

a. In 2002, an ABC News poll found that almost three-fourths of the American public believe that the Second Amendment of the U.S. Constitution protects the rights of "individuals" to own guns.(209)

b. Zogby pollsters found that by a more than 3 to 1 margin, Americans support punishing "criminals who use a gun in the commission of a crime" over legislation to "ban handguns."(210)

c. A Research 2000 poll found that 85% of Americans would find it appropriate for a principal or teacher to use "a gun at school to defend the lives of students" to stop a school massacre.(211)

d. In a Time/CNN poll conducted just weeks after the September 11 terrorist attacks, 61 percent said they favored allowing pilots to carry guns.(212) A subsequent poll conducted by Wilson Research Strategies found support for arming pilots had risen to almost seven in ten people (68 percent).(213)

e. Shortly after the 1999 Columbine High School massacre in Littleton, Colorado, a Colorado News poll showed that 65 percent of people surveyed favored a concealed-carry law allowing private citizens to carry firearms.(214)

This finding shocked anti-gun spokesmen who felt that the then-recent tragedy should have suppressed support for gun rights in the state of Colorado. "What really surprises me is we're at ground zero and I would expect our numbers to be higher," said Arnie Grossman, co-founder of SAFE, an anti-gun group in Colorado. "I think it means we have a big job ahead of us."(215)

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1 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.

Dr. Kleck is a professor in the school of criminology and criminal justice at Florida State University in Tallahassee. He has researched extensively and published several essays on the gun control issue. His book, *Point Blank: Guns and Violence in America*, has become a widely cited source in the gun control debate. In fact, this book earned Dr. Kleck the prestigious American Society of Criminology Michael J. Hindelang award for 1993. This award is given for the book published in the past two to three years that makes the most outstanding contribution to criminology.

Even those who don't like the conclusions Dr. Kleck reaches, cannot argue with his impeccable research and methodology. In "A Tribute to a View I Have Opposed," Marvin E. Wolfgang writes that, "What troubles me is the article by Gary Kleck and Marc Gertz. The reason I am troubled is that they have provided an almost clear-cut case of methodologically sound research in support of something I have theoretically opposed for years, namely, the use of a gun in defense against a criminal perpetrator. . . . I have to admit my admiration for the care and caution expressed in this article and this research. Can it be true that about two million instances occur each year in which a gun was used as a defensive measure against crime? It is hard to believe. Yet, it is hard to challenge the data collected. We do not have contrary evidence." Wolfgang, "A Tribute to a View I Have Opposed," *The Journal of Criminal Law and Criminology*, at 188. Wolfgang says there is no "contrary evidence." Indeed, there are more than a dozen national polls—one of which was conducted by *The Los Angeles Times*—that have found figures comparable to the Kleck-Gertz study. Even the Clinton Justice Department (through the National Institute of Justice) found there were as many as 1.5 million defensive users of firearms every year. See National Institute of Justice, "Guns in America: National Survey on Private Ownership and Use of Firearms," Research in Brief (May 1997).

As for Dr. Kleck, readers of his materials may be interested to know that he is a member of the ACLU, Amnesty International USA, and Common Cause. He is not and has never been a member of or contributor to any advocacy group on either side of the gun control debate.

2 According to the National Safety Council, the total number of gun deaths (by accidents, suicides and homicides) account for less than 30,000 deaths per year. See *Injury Facts*, published yearly by the National Safety Council, Itasca, Illinois.

3 Philip J. Cook and Jens Ludwig, "Guns in America: National Survey on Private Ownership and Use of Firearms," NIJ Research in Brief (May 1997); available at <http://www.ncjrs.org/txtfiles/165476.txt>. The finding of 1.5 million yearly self-defense cases did not sit well with the anti-gun bias of the study's authors, who attempted to explain why there could not possibly be one and a half million cases of self-defense every year. Nevertheless, the 1.5 million figure is consistent with a mountain of independent surveys showing similar figures. The sponsors of these studies—nearly a dozen—are quite varied, and include anti-gun organizations, news media organizations, governments and commercial polling firms. See also



Kleck and Gertz, *supra* note 1, pp. 182-183.

4 One of the authors of the University of Chicago study reported on the study's findings in John R. Lott, Jr., "More Guns, Less Violent Crime," *The Wall Street Journal* (28 August 1996). See also John R. Lott, Jr. and David B. Mustard, "Crime, Deterrence, and Right-to-Carry Concealed Handguns," University of Chicago (15 August 1996); and Lott, *More Guns, Less Crime* (1998, 2000).

5 Jens Ludwig and Philip J. Cook, "Homicide and Suicide Rates Associated With Implementation of the Brady Handgun Violence Prevention Act," *Journal of the American Medical Association*, vol. 284, no. 5 (August 2, 2000).

6 For football deaths, see Frederick O. Mueller, *Annual Survey of Football Injury Research: 1931-2001*, National Center for Catastrophic Sport Injury Research (February 2002) at <http://www.unc.edu/depts/nccsi/SurveyofFootballInjuries.htm>. For school firearms murders, see Dr. Ronald D. Stephens, "School Associated Violent Deaths," *The National School Safety Center Report* (June 3, 2002) at <http://www.NSSC1.org>. In addition to the 22 murders which occurred on school property or at school-sponsored events, there were another two shooting deaths which were accidents and twelve which were suicides.

7 The BATF estimates that licensed gun dealers sell about 4 million new firearms each year. See US Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, *Commerce in Firearms in the United States* (February 2000), p. 6, which is available at [http://www.atf.treas.gov/pub/fire-explo\\_pub/020400report.pdf](http://www.atf.treas.gov/pub/fire-explo_pub/020400report.pdf). A similar statistic which tracks with the number of firearms sold is the production of new firearms. According to the American Firearms Industry, there were about 4 million new firearms produced each year during the first half of the 1990s in this country. See American Firearms Industry, *Production: 1973-1995* at <http://www.amfire.com/production.htm>. Numbers revealing the drop in the U.S. murder rate during the 1990s, can be examined using the FBI's Uniform Crime Reports. Murders in the United States dropped from a high of 9.4 murders per 100,000 in 1990 to a rate of 5.7 per 100,000 in 1999—a drop of 39%.

8 Accidental gun deaths in the home decreased by 38% between 1990 and 1999. National Safety Council, *Injury Facts* (2000), p. 125.

9 The CDC study examined gun and ammunition bans, waiting periods, background checks, lock-up your safety laws, plus much more. The inescapable conclusion was that the "evidence was insufficient" to show that such gun restrictions reduced crime rates. [Centers for Disease Control and Prevention, "First Reports Evaluating the Effectiveness of Strategies for Preventing Violence: Early Childhood Home Visitation and Firearms Laws," *Morbidity and Mortality Weekly Report* (October 3, 2003), vol. 52(No. RR-14):14-18.] It should be noted that Dr. John's Lott research—made widely available in *More Guns, Less Crime* (see *supra* note 4)—was part of the data examined by the CDC. The agency concluded there was no evidence to support the idea that "shall issue" carry laws reduce crime. Despite the agency's vote of no confidence in Lott's data, his research has been verified by other independent works, such as the one published in the *Stanford Law Review*. [Florenz Plassmann and John Whitley, "Confirming 'More Guns, Less Crime,'" *Stanford Law Review* (April 16, 2003), vol. 55:1313.]

This law review article by Plassmann and Whitley cites several other studies showing that concealed carry laws have made a positive impact on crime rates—in some cases, finding benefits much greater than what was reported in Lott's research. Those studies include the following: William Alan Bartley & Mark A. Cohen, *The Effect of Concealed Weapons Laws: An Extreme Bound Analysis*, 36 *ECON. INQUIRY* 258, 258-65 (1998); Stephen G. Bronars and

John R. Lott, Jr., Criminal Deterrence, Geographic Spillovers, and Right-to-Carry Laws, *AM. ECON. REV.*, May 1998, at 475-79; John R. Lott, Jr. & John E. Whitley, Safe-Storage Gun Laws: Accidental Deaths, Suicides, and Crime, 44 *J.L. & ECON.* 659, 659-89 (2001); Tomas B. Marvell, The Impact of Banning Juvenile Gun Possession, 44 *J.L. & ECON.* 691, 691-714 (2001); Carlisle E. Moody, Testing for the Effects of Concealed Weapons Laws: Specification Errors and Robustness, 44 *J.L. & ECON.* 799, 799-813 (2001); David B. Mustard, The Impact of Gun Laws on Police Deaths, 44 *J.L. & ECON.* 635, 635-58 (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, 747-70 (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, 771-98 (2001); Eric Helland & Alexander Tabarrok, Using Placebo Laws to Test "More Guns, Less Crime": A Note (Univ. of Chi. Graduate Sch. of Bus., Working Paper, 2002). 10 National Institute of Justice, "Homicide in Eight U.S. Cities: Trends, Context, and Policy Implications," Research Report (December 1997), p. 99.

11 Caroline Wolf Harlow, "Firearm Use by Offenders: Survey of Inmates in State and Federal Correctional Facilities," Bureau of Justice Statistics Special Report (November 2001), p. 1.

12 Daniel Merkle, "America: It's Our Right to Bear Arms," *ABCNews.com* (May 14, 2002). The poll of 1,028 adults was conducted between May 8 and 12 of 2002. The poll found that after hearing the text of the Second Amendment verbatim, 73 percent of the American public viewed the amendment as guaranteeing an individual right. Only 20 percent thought the amendment guaranteed the right of a state to maintain a militia.

13 "Zogby American Values Poll Results," *The Washington Times* (March 28, 2000).

14 Research 2000 of Rockville, Maryland. This survey was conducted from January 30 through February 1, 2002. A total of 1101 likely voters nationally were interviewed by telephone.

15 See *supra* notes 2 and 3.

17 Don B. Kates, "Guns and Public Health: Epidemic of Violence, or Pandemic of Propaganda?" in Gary Kleck & Kates, *Armed: New Perspectives on Gun Control* (2001), p.75.

17 *Ibid.*

18 "Handgun crime 'up' despite ban," *BBC News Online* (July 16, 2001) at [http://news.bbc.co.uk/low/english/uk/newsid\\_1440000/1440764.stm](http://news.bbc.co.uk/low/english/uk/newsid_1440000/1440764.stm).

19 John van Kesteren, Pat Mayhew and Paul Nieuwbeerta, "Criminal Victimization in Seventeen Industrialised Countries: Key findings from the 2000 International Crime Victims Survey," (2000). This study can be read at [http://www.unicri.it/icvs/publications/index\\_pub.htm](http://www.unicri.it/icvs/publications/index_pub.htm). The link is to the ICVS homepage; study data are available for download as Acrobat pdf files.

20 See *supra* note 1.

21 See *supra* note 2.

22 Kleck and Gertz, "Armed Resistance to Crime," at 173, 185.

23 Kleck and Gertz, "Armed Resistance to Crime," at 185.

24 See *supra* note 3.

25 Kleck, *Point Blank: Guns and Violence in America*, (1991):111-116, 148.

26 George F. Will, "Are We 'a Nation of Cowards'?", *Newsweek* (15 November 1993):93.

27 *Id.* at 164, 185.

28 Dr. Gary Kleck, interview with J. Neil Schulman, "Q and A: Guns, crime and self-defense," *The Orange County Register* (19 September 1993). In the interview with Schulman, Dr. Kleck reports on findings from a national survey which he and Dr. Marc Gertz conducted in Spring,

1993—a survey which findings were reported in Kleck and Gertz, "Armed Resistance to Crime." 29 See *supra* note 4.

30 Lott and Mustard, "Crime, Deterrence, and Right-to-Carry Concealed Handguns."

31 Kathleen O'Leary Morgan, Scott Morgan and Neal Quitno, "Rankings of States in Most Dangerous/Safest State Awards 1994 to 2003," Morgan Quitno Press (2004) at <http://www.statestats.com/dang9403.htm>. Morgan Quitno Press is an independent private research and publishing company which was founded in 1989. The company specializes in reference books and monthly reports that compare states and cities in several different subject areas. In the first 10 years in which they published their Safest State Award, Vermont has consistently remained one of the top five safest states.

32 Memo by Jim Smith, Secretary of State, Florida Department of State, Division of Licensing, Concealed Weapons/Firearms License Statistical Report (October 1, 2002).

33 Florida's murder rate was 11.4 per 100,000 in 1987, but only 5.5 in 2002. Compare Federal Bureau of Investigation, "Crime in the United States," Uniform Crime Reports, (1988): 7, 53; and FBI, (2003):19, 79.

34 From 1988 through 2002, there were 229 documented alligator attacks on human beings in Florida. This does not include any unreported encounters. Interview with Henry Cabbage, Media Relations for the Florida Fish and Wildlife Conservation, Tallahassee, Florida (25 July 2003). By contrast, there were only 155 CCW holders who used their guns during the same period to commit a crime. See *supra* note 32.

35 John R. Lott, Jr., "Right to carry would disprove horror stories," Kansas City Star, (12 July 2003).

36 The comparison period between Georgia and Wisconsin is for the years 1976 to 1993. The enactment of the national Brady waiting period in 1994 ended the ability to extend, beyond 1993, any comparison of waiting periods and concealed carry laws in states such as Georgia and Wisconsin. Compare FBI, "Crime in the United States," Uniform Crime Reports (1977):45, 53; and FBI, (1994):70, 78.

37 Gary Kleck, "Crime Control Through the Private Use of Armed Force," Social Problems 35 (February 1988):15.

38 Compare Kleck, "Crime Control," at 15, and Chief Dwaine L. Wilson, City of Kennesaw Police Department, "Month to Month Statistics: 1991." (Residential burglary rates from 1981-1991 are based on statistics for the months of March - October.)

39 Kleck, Point Blank, at 140.

40 Kleck, "Crime Control," at 13.

41 U.S. Department of Justice, Law Enforcement Assistance Administration, Rape Victimization in 26 American Cities (1979), p. 31.

42 U.S., Department of Justice, National Institute of Justice, "The Armed Criminal in America: A Survey of Incarcerated Felons," Research Report (July 1985): 27.

43 *Id.*

44 *Id.*

45 Warren v. District of Columbia, D.C. App., 444 A. 2d 1 (1981). See also Richard W. Stevens, Dial 911 and Die (1999) which gives the laws and cases in all 50 states to support the statement that government (police) owes no duty to protect individual citizens from criminal attack.

46 Statement of Representative Ron Johnson in U.S. Senate, "Handgun Violence Prevention Act of 1987," Hearing before the Subcommittee on the Constitution of the Committee on the Judiciary (16 June 1987):33.

- 47 Bureau of Justice Statistics, Sourcebook of Criminal Justice Statistics—1990 (1991):257.
- 48 Interview with Brian A. Reaves, Ph.D., statistician for the Bureau of Justice Statistics in Washington, D.C. (January 11, 2001). In 1996, the total number (estimated) of all law enforcement combined (federal, state and local) that were on duty and assigned to respond to calls at any one time—on the average—was approximately 146,395 officers. There were 265,463,000 people living in the United States in 1996 for an actual ratio of 1,813 citizens for every officer. See also Kleck, Point Blank, at 132.
- 49 The murder rates for Washington, D.C. and the nation were 26.8 and 8.8 respectively in 1976. Their respective murder rates 25 years later were 40.6 and 5.6. These murder rates are based on the population per 100,000 people. FBI, "Crime in the United States," Uniform Crime Reports (1977 and 2002).
- 50 FBI, "Crime in the United States," Uniform Crime Reports (October 28, 2002): 77.
- 51 Id. at 190. According to Arlington County's Department of Planning, Housing and Development, the population in Arlington, Virginia for 2001 was 190,092.
- 52 Id. at 85.
- 53 Gary Kleck, speech delivered to the National Research Council, quoted in Don B. Kates, Jr., "Scholars' ignorant bias causes anti-gun sentiments," Handguns (June 1991), pp. 12-13.
- 54 "Gun Critic Shifts His Position," The Denver Post (November 28, 1985).
- 55 James D. Wright, "Second Thoughts About Gun Control," The Public Interest, 91 (Spring 1988):23, 25.
- 56 Dave Kopel, "Guns, Germs, and Science: Public Health Approaches to Gun Control," 84 The Journal of the Medical Association of Georgia (June 1995): 272.
- 57 Id.
- 58 Congressional Record (May 8, 1991), at H 2859, H 2862.
- 59 Wall Street Journal (March 3, 1994) at A10.
- 60 Jonathan T. Lovitt, "Survival for the armed," USA Today (May 4, 1992).
- 61 U.S. Senate, "The Right to Keep and Bear Arms," Report of the Subcommittee on the Constitution of the Committee on the Judiciary, (1982):12.
- 62 U.S. v. Verdugo-Urquidez, 494 US 259 (1990).
- 63 The court stated, "The fact that the liberty of the press may be abused by miscreant purveyors of scandal does not make any less necessary the immunity of the press from previous restraint in dealing with official misconduct. Subsequent punishment for such abuses as may exist is the appropriate remedy, consistent with constitutional privilege." Near v. Minnesota, 283 U.S. 697, 51 S. Ct. 625, 75 L. Ed. 1357 (1931).
- 64 Alan Korwin, Brady Law Closes Gun Stores More Than 8 Days, (Bloomfield Press: July 28, 1999). Bloomfield Press can be contacted at <http://www.bloomfieldpress.com>.
- 65 Richard B. Abell, Assistant Attorney General, Task Force Chairman, Report to the Attorney General on Systems for Identifying Felons Who Attempt to Purchase Firearms (October 1989), p. 75.
- 66 Bureau of Justice Assistance, Grant Manager's Memorandum, Pt. 1: Project Summary (September 30, 1994), Project Number: 94-DD-CX-0166.
- 67 Copy of "FIST" (Firearms Inquiry Statistical Tracking) software at GOA headquarters, Springfield, VA. See also Pennsylvania Sportsmen's News (Oct./Nov. 1996). The default in the "FIST" computer software is for the police officials to indefinitely retain the information on gun owners—despite the fact that the Brady law only allows officials to retain this data for 20 days. One wonders who will ensure that this information will be deleted after the 20th day.

68 Mike Slavonic, NRA Director and Chairman of the Legislative Committee for the Allegheny County Sportsmen's League, states that the instant background check could be "our downfall." He notes that, "What most Americans don't know is that once instant check goes into effect in 1998 the purpose of Brady could be used to set the stage for national confiscation. Instant check could eventually keep guns out of the hands of everyone by registering everyone who purchases a handgun, rifle and shotgun and who obtained concealed weapons permits in a computerized database like 'FIST'. The most difficult problem with a gun ban is locating the firearms. FIST [with the help of the instant check], over time, could solve that problem." Slavonic, "Another Gun Database Discovered," Pennsylvania Sportsmen's News (Oct./Nov. 1996) at 7.

69 FBI's Final Rule printed in the Federal Register (October 30, 1998) at 58311. After the FBI submitted its proposed regulations on June 4, 1998, Gun Owners of America submitted written comments (in September of 1988) to challenge the FBI's regulations. GOA stated, "These proposed regulations are unlawful and unconstitutional. They are so fundamentally corrupt that there are no incremental changes which will even marginally improve them. Rest assured that they will be challenged in every possible judicial and legislative forum. . . . The efforts to retain information on gun owners for eighteen months—and indefinitely in your computer backup system—constitutes an illegal system of firearms registration, in violation of 18 U.S.C. 926. The same is, in fact, true even for efforts to retain information about persons prohibited from purchasing firearms."

70 David B. Kopel, Policy Review 63 (Winter 1993):6.

71 Kopel, ed., Guns: Who Should Have Them? (1995) at 88, 117 (fn. 75), and 122 (fn. 124).

72 See supra note 5.

73 Scully, "Supremacist's shooting spree could spur gun control moves," The Washington Times (July 8, 1999).

74 Attorney General Betty D. Montgomery, "The U.S. Supreme Court's Action in Striking Portions of the Brady Act," News Statement (June 30, 1997).

75 Department of Justice, "Survey of Incarcerated Felons," p. 36.

76 Pierre Thomas, "In the Line of Fire: The 'Straw Purchase' Scam," The Washington Post (August 18, 1991); and Thomas, "Va. Driver's License is Loophole for Guns: Fake Addresses Used in No-Wait Sales," The Washington Post (January 20, 1992).

77 National Institute of Justice, "Homicide in Eight U.S. Cities: Trends, Context, and Policy Implications," Research Report (December 1997), p. 99.

78 Meghan Hoyer, "Brady Act results overstated in Indiana," Indianapolis Star and News (June 23, 1998).

79 See General Accounting Office, "Gun Control: Implementation of the Brady Handgun Violence Prevention Act," Report to the Committee on the Judiciary, U.S. Senate, and the Committee on the Judiciary, House of Representatives (January 1996), p. 8.

80 The Washington Times noted in July of 1999 that:

Although federal officials say about 400,000 persons have been prevented from buying guns by the instant check system, only one has been prosecuted by the Department of Justice in the last three years. [Sean Scully, "Supremacist's shooting spree could spur gun control moves," The Washington Times (July 8, 1999).]

That made for a whopping total of just eight prosecutions and merely three persons sent to jail in the first five years the Brady Law was in existence. One certainly had to conclude that the Brady Law was not working to put criminals behind bars. There are no reliable, government

statistics that regularly update the public on how many Brady violators are being incarcerated. However, everyone agrees the number is very low. For example, a training manual produced by Handgun Control, Inc., guides its activists in how to answer a question regarding the low number of convictions under the Brady Law. The manual basically says, when you are asked why so few people are being sent to jail under Brady, just ignore the question. The question posed in the manual reads: "Q: You claim that the Brady Law works, why have only 7 people been convicted for violating the law?" To answer this question, the manual encourages activists to go on the offensive and say the following: "A quarter-million high-risk people have been stopped from buying firearms since 1994, and that was always the point of the Brady law. Ninety percent of Americans agree that background checks and waiting periods are sensible regulations that protect public safety. With the success of the Brady law, the only people who continue to oppose regulating guns like other products are the gun lobby and the politicians who receive their enormous campaign contributions." [Naomi Paiss, "Sense and Sanity: A Guide to Talking about Gun Control," Handgun Control, Center to Prevent Handgun Violence (November 1997).] In other words, since there is no good answer to this question, from their perspective, activists are to remember three words: Attack, Attack, Attack.

81 Of persons denied the right to purchase a firearm under the Brady Law, 7.6 percent of the denials involved routine traffic stops. Another 38.9 percent were the result of administrative snafus. Only 44.7 percent of denials were as a result of felony convictions, and many of these resulted from white collar crimes and ancient peccadilloes which would not suggest that the person would pose a danger. See *supra* note 79 at 39-40, 64-65.

82 *Id.*, at 4.

83 *Id.*

84 On August 16, 1991, New York City Mayor David Dinkins signed Local Law 78 which banned the possession and sale of certain rifles and shotguns.

85 John Marzulli, "Weapons ban defied: S.I. man, arsenal seized," *Daily News* (September 5, 1992).

86 "Thousands of Californians Become Instant Criminals," *The New Gun Week* (March 1, 1998). See also "Gun Confiscation Begins: Gun Law Victim Holds Press Conference and Turns in Gun to Local Officials," *NRA Press Release* (January 28, 1998).

87 *Id.*

88 To read a photocopy of this notice, go to <http://www.gunowners.org/fs9906.htm> .

89 *Id.*

90 David Kopel, "Trust the People: The Case Against Gun Control," [Cato Institute] *Policy Analysis* 109 (July 11, 1988):25.

91 Jay Simkin, Aaron Zelman and Alan M. Rice, *Lethal Laws: "Gun Control" is the Key to Genocide*, (Milwaukee: Jews for the Preservation of Firearms Ownership, 1994).

92 Senate, "Handgun Violence," at 107, citing *Novae Russkae Slovo*, Vol. LXXII, No. 26.291, (6 Nov. 1983).

93 Kopel, "Trust the People," at 26.

94 *Id.*, at 25-26.

95 *U.S. News & World Report*, (17 January 1994): 8.

96 *Lamont v. Postmaster General*, 381 U.S. 301, 85 S. Ct. 1493, 14 L. Ed. 2d 398 (1965).

97 Dr. Edward Ezell presented testimony before the Senate Subcommittee on the Constitution in 1989, and while doing so, helped clarify the true definition of an "assault rifle." The subcommittee record reports the following credentials for Dr. Ezell: Curator of the National

Firearms Collection at the Smithsonian Institution's National Museum of American History, and founding Director of the Institute for Research on Small Arms in International Security.

98 Statement by Edward Ezell, "Assault Weapons," Hearings Before the Subcommittee on the Constitution of the Committee on the Judiciary, U.S. Senate, (5 May 1989):396.

99 Defense Intelligence Agency, Small Arms Identification and Operation Guide—Eurasian Communist Countries (Washington, D.C.: Government Printing Office, 1988):105, cited in Kopel, *Guns: Who Should Have Them?* at 162.

100 Kleck, *Point Blank*, at 70.

101 Senate, "Assault Weapons," at 396.

102 Officer William R. McGrath, "An Open Letter to American Politicians," *The Police Marksman* (May/June 1989): 19.

103 *Id.*

104 *Id.*

105 Congressional Record, 13 September 1990:E 2826, citing [Police Advertisement], Roll Call, 3 September 1990. Also, see Howard Schneider, "Gun Owners Take Shot at Schaefer Assault-Weapon Bill," *The Washington Post* (February 15, 1991).

106 Iver Peterson, "Both Sides Say Trenton's Ban on Assault Rifles Has Little Effect on Crime," *The New York Times* (June 20, 1993).

107 *Id.*

108 U.S. Department of Justice, Bureau of Justice Statistics, "Survey of State Prison Inmates, 1991" (March 1993):18.

109 FBI, "Crime in the United States," (1994):18.

110 Matt L. Rodriguez, Superintendent of Police for the City of Chicago, 1993 Murder Analysis at 12, 13.

111 Compare FBI, "Law Enforcement Officers Killed and Assaulted," Uniform Crime Reports, for the years 1989 (0 officers); 1990 (two officers), at 24, 36; 1991 (three officers), at 40, 41, 45; 1992 (two officers), at 46; 1993 (2 officers), at 41, 45.

Note: In 1993, there were three officers who died by unknown firearms which possibly could have been classified as semi-automatic "assault weapons." (FBI, "Law Enforcement Officers Killed and Assaulted, 1993," at 55.) These three died at Waco, Texas—a jury later finding that authorities had provoked the residents at Mt. Carmel into firing. (Carol Moore, *The Davidian Massacre* (1995): 450.) Also supporting this view were two BATF agents who initially told the Texas Rangers that authorities had fired first upon the Davidians. (J.L.Pate, "Prosecution Against Waco Survivors Begins," *The New Gun Week*, (11 February 1994):5.) Despite the jury's finding that authorities provoked the residents in Mt. Carmel into firing, *Newsweek* and other news sources have pointed out that the officers might have died from "friendly fire." ("Was it Friendly Fire? In the bungled Waco raid, federal agents may have been shot by their own men," *Newsweek*, (5 April 1993):50.)

112 In the five years of 1989 to 1993, 30 officers were killed by their own service weapons. By contrast, only 9 officers were killed by so-called assault weapons. *Id.* for the years 1989, at 4; 1990, at 4, 24, 36; 1991, at 4, 40, 41, 45; 1992, at 4, 46; 1993, at 4, 41, 45.

113 In the five years of 1989 to 1993, 15 officers were killed by knives and blunt objects. By contrast, only nine officers were killed by so-called assault weapons. Compare FBI, "Officers Killed," for the years 1989, at 4, 13, 26; 1990, at 4, 12, 24, 36; and 1991, at 4, 40, 41, 45; 1992, at 4, 46; 1993, at 4, 13, 41, 45.

114 By using an inflated definition of "assault weapon," HCI attempts to "show" that these guns

killed 36 percent (a minority) of the policemen who were murdered between January 1, 1994 and September 30, 1995. Of course, HCI's figure wildly departs from the 1% figure given by official government studies. (See *supra* note 108.) See Handgun Control, Inc., *Cops Under Fire: Law Enforcement Officers Killed with Assault Weapons or Guns with High Capacity Magazines*, (29 November 1995):2.

115 *Id.* The HCI study borrowed the very expansive definition of semi-automatic firearm from the Clinton gun ban which passed in 1994. This definition is so broad that it covers over 180 types of firearms, including reproductions of the 1873 Winchester and the 1860 Henry Rifles. (While the Clinton gun ban exempted reproductions of these two guns under section 922(v)(3) of Title 18—the provisions defining what a semi-automatic "assault weapon" is—the ban did not exempt these rifles under section 922(w)—the provision banning high-capacity magazines. Both of these rifles have tubular-fed magazines holding over 10 rounds, thus making them banned firearms.)

The generic definition for an "assault weapon" in the Clinton gun ban would include many, many other guns, had the law failed to specifically exclude several hundreds of common guns which would have easily fallen under the definition of an "assault weapon."

Not surprisingly, by using President Clinton's over-inflated definition of an "assault weapon," HCI was able to find more and more of these guns killing officers. To extend their logic, if HCI figures a way to define ALL guns as "assault weapons," then it will be able to claim that these "assault weapons" comprise 100 percent of the guns that kill policemen.

Even so, HCI has now encountered a dilemma with the publishing of their study: their study "shows" that there has been a dramatic increase in the number of policemen being killed by so-called assault weapons AFTER the ban was put in place. (HCI claims that 36% of the guns killing officers are "assault weapons," but the government's own pre-ban figures show the number was only one percent. See *supra* note 108.) Thus, either HCI's data is wrong, or it must concede that gun control INCREASES the threat to police officers.

116 Keith Bea, Congressional Research Service, "'Assault Weapons': Military-Style Semiautomatic Firearms Facts and Issues," CRS Report for Congress (13 May 1992, Technical Revisions: 4 June 1992): 65.

117 *Id.* at 67.

118 *Id.* at 69.

119 Kleck, *Point Blank*, at 75.

120 Massad Ayoob, "Defending Firepower," *Combat Handguns* (October 1990), p. 71.

121 *Id.* at 70.

122 *Id.* at 25.

123 *Id.* at 71.

124 "Koreans make armed stand to protect shops from looters," *Roanoke Times & World-News*, 3 May 1992.

125 U.S. Senate, "The Right to Keep and Bear Arms," Report of the Subcommittee on the Constitution of the Committee on the Judiciary (1982):7.

126 *U.S. v. Miller*, 307 U.S. 174 (1939).

127 The Institute of Medicine says the number of yearly deaths in the United States resulting from medical errors ranges from 44,000 to 98,000 people. See Linda T. Kohn, Janet M. Corrigan, and Molla S. Donaldson, ed., "To Err is Human: Building a Safer Health System," National Academy Press (2000). The full text of this report is available at <http://www.nap.edu/books/0309068371/html>.



128 From 1970 to 1991, the number of fatal gun accidents for children aged 0-14 declined from 530 to 227. Kopel, *Guns: Who Should Have Them?* at 311. And according to the National Safety Council, the decline has continued as there were only 142 fatal gun accidents for children in that age group in 1997. National Safety Council, *Injury Facts: 2000 Edition*, at 18.

129 Kleck, *Point Blank*, at 271, 276.

130 *Id.* at 286.

131 *Id.* at 276, 277.

132 According to Dr. Kleck, the number of children who take guns to school is between 16,000 and 17,000 students on any given day—or about 1 in every 800 high school students. Kleck, cited in Kopel, *Guns: Who Should Have Them?*, at 323.

133 See *supra* note 6.

134 National Safety Council, *Injury Facts: 2000 Edition*, p. 10, 11, 18.

135 Alan Korwin, *Researcher Finds Federal Gun Law Grew Nearly 6% in 1998*, at <http://www.bloomfieldpress.com/6percent.htm>.

136 Kopel, *Guns: Who Should Have Them?*, at 355.

137 *Id.*, at 356.

138 *Id.*, at 359.

139 *Id.*, at 360. Kopel notes how several infamous criminals—such as John Hinckley (who shot Jim Brady) and George Hennard (who killed 22 people at Luby's Cafeteria in Killeen, Texas)—were each reenacting scenes from movies that they had previously seen or studied.

140 Steve Twomey, "Indiscretions That Are Not So Youthful," *The Washington Post* (December 6, 1993).

141 Christine Biegler, "Fearing crime, more women buy firearms," *The Washington Times* (November 19, 1992).

142 Paxton Quigley, *Armed & Female* (1989): 7.

143 According to Dr. Gary Kleck, about 205,000 women use guns every year to protect themselves against sexual abuse. Kleck and Gertz, "Armed Resistance to Crime," at 185.

144 Don B. Kates, Jr., *Guns, Murders, and the Constitution: A Realistic Assessment of Gun Control* (1990), at 29, citing U.S. Bureau of Justice Statistics.

145 *Id.*, at 25, 26.

146 Dr. Edgar A. Suter, "Guns in the Medical Literature—A Failure of Peer Review," *The Journal of the Medical Association of Georgia*, vol. 83 (March 1994):136.

147 Kleck and Gertz, "Armed Resistance to Crime," at 173, 185.

148 Don B. Kates, "Guns and Public Health: Epidemic of Violence, or Pandemic of Propaganda?" in Gary Kleck & Kates, *Armed: New Perspectives on Gun Control* (2001), p. 79.

149 *Ibid.*, p. 75.

150 *Ibid.*, p. 76.

151 Criminal histories of murder victims is based on statistics from the city of Chicago: Matt L. Rodriguez, Superintendent of Police for the City of Chicago, 1997 Murder Analysis, at 21; 1996 Murder Analysis, at 21; and 1995 Murder Analysis, at 21. For the city of Chicago, 76% of murderers have prior criminal records. For criminal histories of murderers nationwide, see Bureau of Justice Statistics, *National Update* (October 1991): 4.

152 Bureau of Justice Statistics, *National Update*, at 4.

153 Kleck, *Point Blank*, at 393, 394; Colin Greenwood, Chief Inspector of West Yorkshire Constabulary, *Firearms Control: A Study of Armed Crime and Firearms Control in England and Wales* (1972):31; David Kopel, *The Samurai, the Mountie, and the Cowboy: Should America*

Adopt the Gun Controls of Other Democracies (1992):91, 154.

154 Dr. John R. Lott, Jr., "Gun laws don't reduce crime," USA Today (May 9, 2002). See also Rhett Watson and Matthew Bayley, "Gun crime up 40pc since Port Arthur," The Daily Telegraph (April 28, 2002). See also *supra* note 155.

155 Gary A. Mauser, "The Failed Experiment: Gun Control and Public Safety in Canada, Australia, England and Wales," Public Policy Sources (The Fraser Institute, November 2003), no. 71:4. This study can be accessed at

<http://www.fraserinstitute.org/shared/readmore.asp?sNav=pb&id=604>.

156 "Handgun crime 'up' despite ban," BBC News Online (July 16, 2001) at

[http://news.bbc.co.uk/low/english/uk/newsid\\_1440000/1440764.stm](http://news.bbc.co.uk/low/english/uk/newsid_1440000/1440764.stm). England is a prime example of how crime has increased after implementing gun control. For example, the original Pistols Act of 1903 did not stop murders from increasing on the island. The number of murders in England was 68 percent higher the year after the ban's enactment (1904) as opposed to the year before (1902). (Greenwood, *supra* note 153.) This was not an aberration, as almost seven decades later, firearms crimes in the U.K. were still on the rise: the number of cases where firearms were used or carried in a crime skyrocketed almost 1,000 percent from 1946 through 1969. (Greenwood,

*supra* note 153 at 159.) And by 1996, the murder rate in England was 132 percent higher than it had been before the original gun ban of 1903 was enacted. (Compare Greenwood, *supra* note 153, with Bureau of Justice Statistics, Crime and Justice in the United States and in England and Wales, 1981-96, Bureau of Justice Statistics, October 1998).

157 "Crime rising in Japan, while arrests at record low: police," AFP News (August 3, 2001); "A crime wave alarms Japan, once gun-free," The Philadelphia Inquirer, 11 July 1992.

158 "Most Crime Worse in England Than US, Study Says," Reuters (October 11, 1998). See also Bureau of Justice Statistics, Crime and Justice in the United States and in England and Wales, 1981-96 (October 1998).

159 See BJS study, *supra* note 158 at iii.

160 John van Kesteren, Pat Mayhew and Paul Nieuwbeerta, "Criminal Victimization in Seventeen Industrialised Countries: Key findings from the 2000 International Crime Victims Survey," (2000). This study can be read at [http://www.unicri.it/icvs/publications/index\\_pub.htm](http://www.unicri.it/icvs/publications/index_pub.htm). The link is to the ICVS homepage; study data are available for download as Acrobat pdf files.

161 Ian Henry and Tim Reid, "Crime figures a sham, say police," The Electronic Telegraph (April 1, 1996).

162 Tim Reid, "Police are accused of fiddling crime data," The Electronic Telegraph (May 4, 1997).

163 John Steele, "Police figures under-record offences by 20 percent," The Electronic Telegraph (July 13, 2000).

164 See *supra* note 161.

165 *Ibid*.

166 *Ibid*.

167 See *supra* note 162.

168 Dave Kopel, Dr. Paul Gallant and Dr. Joanne Eisen, "Britain: From Bad to Worse," NewsMax.com (March 22, 2001).

169 The number of people killed by their own government in Europe averages about 400,000 for the last 70 years. This includes Hitler's extermination of Jews, gypsies and other peoples (20,946,000); Stalin's genocide against the Ukrainian kulaks (6,500,000); and more. R.J.

Rummel, *Death by Government* (2000), pp. 8 and 80.

170 At our historic worst, murders in the United States approached 25,000 in 1993—or 23,180 to be exact. So even applying our highest single-year tally over the past 70 years would mean that Europeans have experienced 16 times as many murders as we have in the United States.

171 *THE FEDERALIST* 46 (James Madison).

172 FBI, "Crime in the United States" (1996): 58.

173 United States Senate, A Majority Staff Report prepared for the use of the Committee on the Judiciary, 1991 *Murder Toll: Initial Projections* (August 1991).

174 Gary Fields, "Gun Conundrum: More on Streets, Fewer Reports of Deaths, Woundings," *The Wall Street Journal* (December 11, 2000).

175 See *supra* note 4.

176 U.S. Senate, "The Right to Keep and Bear Arms," Report of the Subcommittee on the Constitution of the Committee on the Judiciary (1982): 8-17.

177 *Id.*, at 12.

178 *U.S. v. Verdugo-Urquidez*, 494 US 259 (1990).

179 *U.S. v. Lopez*, 514 US 549 (1995).

180 *Printz v. U.S.*, 521 US 98 (1997).

181 David B. Kopel, Stephen P. Halbrook and Alan Korwin, *Supreme Court Gun Cases: Two Centuries of Gun Rights Revealed* (2004), p. 75. The quote in the text comes from an article in the book by Kopel. The article is entitled, "The Supreme Court's Thirty-five Other Gun Cases: What the Supreme Court has said about the Second Amendment."

182 U.S. Senate, "The Right to Keep and Bear Arms," at 9. See also Stephen P. Halbrook, *That Every Man be Armed: The Evolution of a Constitutional Right* (1984): 107-153.

The Senate sponsor of the 14th Amendment, Senator Jacob Howard (R-MI), said the Amendment would force the states to respect "the personal rights guaranteed and secured by the first eight amendments of the Constitution; such as freedom of speech and of the press; . . . the right to keep and bear arms . . . ." *Cong. Globe*, 39th Cong., 1st Sess., pt. 3, 2765 (23 May 1866), cited in Halbrook, at 112.

The House author of the 14th Amendment, Rep. John Bingham (R-OH), said that the first eight amendments to the U.S. Constitution "never were limitations upon the power of the States, until made so by the fourteenth amendment. The words of that amendment, 'no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States,' are an express prohibition upon every State of the Union." *Cong. Globe*, 42d Cong., 1st Sess., pt. 2, Appendix, 84 (31 Mr. 1871), cited in Halbrook, at 146. (Rep. Bingham stated that the "privileges and immunities of citizens of a State, are chiefly defined in the first eight amendments to the Constitution of the United States.")

That the Fourteenth Amendment was intended, among other things, to prevent states from disarming black citizens is clear. During debate over the 14th Amendment, Senator Thomas Hendricks (D-IN) bragged that "colored" people in his state do not enjoy the same rights as white people. Thus, he opposed adoption of the 14th Amendment because among other things, it would grant Second Amendment rights to the "negroes, the coolies, and the Indians." *Cong. Globe*, 39th Cong., 1st Sess., pt. 3, 2939 (4 June 1866) cited in Halbrook, at 113.

183 Public Law 99-308, Sect. 1(b).

184 Elliot, 3:425.

185 [Richard Henry Lee], *Letters from the Federal Farmer to the Republican*, ed. Walter

- Hartwell Bennett (Alabama: The University of Alabama Press, 1978): 124.
- 186 Militia Act of 1792, printed in John F. Callan, *The Military Laws of the United States* (Baltimore: John Murphy & Co., 1858): 65.
- 187 U.S. Senate, "The Right to Keep and Bear Arms," Report of the Subcommittee on the Constitution of the Committee on the Judiciary (1982):7.
- 188 Title 10 of the U.S. Code (Sec. 311) also defines the Militia to include "female citizens of the United States who are members of the National Guard." The Code then divides the Militia into two groups—the "unorganized" militia (the body of the people) and the "organized" militia (the National Guard). This two-fold division of the Militia was not added to federal law until 1903.
- 189 *U.S. v. Miller*, 307 U.S. 174 (1939).
- 190 Kimi Yoshino, "Gun advocates say fear of liability keeps parents from teaching survival skills," *The Fresno Bee* (August 26, 2000).
- 191 William Rasberry, "Ask A.D. Parker about gun control," *The Denver Post* (March 20, 2000).
- 192 Gerald Mizejewski, "Device wins police praise but fails to move skeptics," *The Washington Times* (March 23, 2000).
- 193 Interview with Sammy Gravano in Howard Blum, "The Reluctant Don," *Vanity Fair* (September 1999), p. 165.
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- 195 Jack Kelly, "Moms Make Too Much of Guns," *The Baltimore Sun* (May 22, 2001).
- 196 Liz Marlantes, "Democrats tone down gun-control stance: After years of pushing restrictions, they're on a new quest to capture southern votes," *The Christian Science Monitor* (May 10, 2002).
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- 198 Susan Page, "Democrats sing new tune on gun control," *USA Today* (August 13, 2001).
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