

Gun Owners Foundation
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Self-defense

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

* Law-abiding citizens use guns to defend themselves against criminals as many as 2.5 million times every year -- or about 6,850 times a day.¹ This means that each year, firearms are used more than 60 times more often to protect the lives of honest citizens than to take lives.

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* Of the 2.5 million self-defense cases, as many as 200,000 are by women defending themselves against sexual abuse.³

* Citizens shoot and kill at least twice as many criminals as police do every year (1,527 to 606).⁴ And readers of *Newsweek* learned in 1993 that "only 2 percent of civilian shootings involved an innocent person mistakenly identified as a criminal. The "error rate" for the police, however, was 11 percent, more than five times as high."

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* Of the 2.5 million times citizens use their guns to defend themselves every year, the overwhelming majority merely brandish their gun or fire a warning shot to scare off their attackers. Less than 8% of the time, a citizen will kill or wound his/her attacker.⁶

* Handguns are the weapon of choice for self-defense. Citizens use handguns to protect themselves over 1.9 million times a year.⁷ Many of these self-defense handguns could be labeled as "Saturday Night Specials."

B. Concealed carry laws help reduce crime

* One-half million self-defense uses. Every year, as many as one-half million citizens defend themselves with a firearm away from home.

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* Florida. In the ten years following the passage of Florida's concealed carry law in 1987, there were 478,248 people who received permits to carry firearms.⁹ FBI reports show that the homicide rate in Florida, which in 1987 was much higher than the national average, fell 39% during that 10-year period. The Florida rate is now far below the national average.

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* Do firearms carry laws result in chaos? No. Consider the case of Florida. A citizen in the Sunshine State is almost twice as likely to be attacked by an alligator than to be assaulted by a concealed carry holder. During the first ten years that the Florida law was in effect, alligator attacks outpaced the number of crimes committed by carry holders by a 146 to 88 margin.

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* Nationwide. A comprehensive national study determined in 1996 that violent crime fell after states made it legal to carry concealed firearms. The results of the study showed:

* States which passed concealed carry laws reduced their murder rate by 8.5%, rapes by 5%, aggravated assaults by 7% and robbery by 3%;¹² and

* If those states not having concealed carry laws had adopted such laws in 1992, then approximately 1,570 murders, 4,177 rapes, 60,000 aggravated assaults and over 11,000 robberies would have been avoided yearly.¹³

* Concealed Carry v. Waiting Period Laws. In 1976, both Georgia and Wisconsin tried two different approaches to fighting crime. Georgia enacted legislation making it easier for citizens to carry guns for self-defense, while Wisconsin passed a law requiring a 48 hour waiting period before the purchase of a handgun. What resulted during the ensuing years? Georgia's law served as a deterrent to criminals and helped drop its homicide rate by 21 percent. Wisconsin's murder rate, however, rose 33 percent during the same period.

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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 firearm in the house. The residential burglary rate subsequently dropped 89% in Kennesaw, compared to the modest 10.4% drop in Georgia as a whole.¹⁵

* Ten years later (1991), the residential burglary rate in Kennesaw was still 72% lower than it

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had been in 1981, before the law was passed.¹⁶

* Nationwide. Statistical comparisons with other countries show that burglars in the United States are far less apt to enter an occupied home than their foreign counterparts who live in countries where fewer civilians own firearms. Consider the following rates showing how often a homeowner is present when a burglar strikes:

* Homeowner occupancy rate in the gun control countries of Great Britain, Canada and Netherlands: 45% (average of the three countries); and,

* Homeowner occupancy rate in the United States: 12.7%.¹⁷

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 guns. The result: Orlando's rape rate dropped 88% in 1967, whereas the rape rate remained constant in the rest of Florida and the nation.¹⁸

* Nationwide. In 1979, the Carter Justice Department found that of more than 32,000 attempted rapes, 32% were actually committed. But when a woman was armed with a gun or knife, only 3% of the attempted rapes were actually successful.¹⁹

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 with a gun."²⁰

* 74% of felons polled agreed that "one reason burglars avoid houses when people are at home is that they fear being shot during the crime."²¹

* 57% of felons polled agreed that "criminals are more worried about meeting an armed victim than they are about running into the police."²²

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 the public in general. For example, in *Warren v. D.C.* the court stated "courts have without exception concluded that when a municipality or other governmental entity undertakes to furnish police services, it assumes a duty only to the public at large and not to individual members of the community."

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* Former Florida Attorney General Jim Smith told Florida legislators that police responded to only about 200,000 of 700,000 calls for help to Dade County authorities. Smith was asked why so many citizens in Dade County were buying guns and he said, "They damn well better, they've got to protect themselves."²⁴

* The Department of Justice found that in 1989, there were 168,881 crimes of violence which were not responded to by police within 1 hour.²⁵

* Currently, there are about 150,000 police officers on duty at any one time to protect a population of more than 250 million Americans -- or almost 1,700 citizens per officer.²⁶ **A.**

Poor track record

* Washington, D.C. has, perhaps, the most restrictive gun control laws in the country, and yet it has one of the highest murder rates in the nation.

* Objection: Critics claim criminals merely get their guns in Virginia where the laws are more relaxed. This, they argue, is why the D.C. gun ban is not working.

* Answer: Perhaps criminals do get their guns in Virginia, but this overlooks one point: *If the availability of guns in Virginia is the root of D.C.'s problems, why does Virginia not have the same murder and crime rate as the District? Virginia is awash in guns and yet the murder rate is much, much lower.*

This holds true even for Virginia's urban areas. The murder rates are:

**City
1997 Murder rate**

Washington, DC	56.9 per 100,000	27
Arlington, VA	1.6 per 100,000	28
(Arlington is just across the river from D.C.)		
Total VA metropolitan area	7.9 per 100,000	29

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* 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."³⁰

* 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.³¹

* Wright says 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."³²

* 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."³³

* 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."³⁴

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

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* 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.

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* 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. ³⁶ 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.

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B. Background checks do not disarm the violent criminal population

* A Justice Department survey of felons showed that 93% of handgun predators had obtained their most recent guns "off-the-record."³⁸

* 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.³⁹

C. 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."

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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."

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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.

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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.

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."

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* 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.

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* More gun owner registration (1996). A new computer software distributed by the Justice Department allows police officials to easily (and unlawfully) register the names and addresses of gun buyers. This software -- known as FIST -- also keeps information such as the type of gun purchased, the make, model and caliber, the date of purchase, etc.

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The instant background check could be a key component in registering this information in the computer software.

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* 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."
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* 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.
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* 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.
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E. The Brady registration law is NOT working

General Accounting Office Study:

1. 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.*
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With only three criminals sent to jail, one can hardly argue that the law is working to keep violent criminals from getting handguns on the street.

2. 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.*
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3. Gun control advocates admit the Brady Law is not a panacea. According to a January, 1996

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report by the General Accounting Office, "Proponents [of gun control] acknowledge that criminal records checks alone will not prevent felons from obtaining firearms."

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4. 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."

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A. Licensing or registration can lead to confiscation of firearms

* Step One: 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.

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* Step Two: 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]."

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* Registration and Confiscation in California. 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, California officials reversed course and confiscated the firearm.

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* Foreign Countries. Gun registration has led to confiscation in several countries, including Greece, Ireland, Jamaica and Bermuda.⁵⁷ 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.
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B. People in imminent danger can die waiting for a firearms license

* In 1983, 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.⁵⁹

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

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* According to one of the preeminent experts in the field of firearms, Dr. Edward Ezell,⁶⁴ a key characteristic of a true assault weapon is that it must have the capability of "full automatic fire."⁶⁵

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.⁶⁶

* Anti-gun pundits in recent years have managed to define "assault weapons" as *semi-automatic* firearms which *only externally* resemble a military firearm.⁶⁷

Dr. Edward Ezell notes that true assault weapons "were designed to produce roughly aimed bursts of full automatic fire"⁶⁸

-- 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.'"⁶⁹

* "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."⁷⁰

* "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."⁷¹

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."

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* 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."

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Moreover, New Jersey police statistics show that only .026 of 1 percent of all crimes involve "assault rifles."

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* 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.

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* 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."

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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."

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* 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.

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Contrastly, police officers were more than three times as likely to be killed by their own guns than by "assault weapons."

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* 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."⁸⁰

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* 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."⁸¹ The irony is that HCI uses a very inflated definition of "assault weapon" and still can not demonstrate that they are used in over 50% of the crimes.

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* 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."

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(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."

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* 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 from."⁸⁵ 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.

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

* Police Capt. Massad Ayooob: "The likelihood of multiple opponents who move fast, often wear

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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."

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(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."88

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. 89

* Illinois: Police shot a drug-induced criminal 33 times before the junkie finally dropped and was unable to shoot any longer. 90

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. 91 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

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[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."

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* 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."

93 **A. General**

Death Rates

Cause	Number
Heart disease	737,563
Cancer	538,455
Stroke (cerebrovascular disease)	157,991
Chronic obstructive pulmonary disease	102,899
Doctor's negligence	93,329
Motor-vehicle	43,363
Firearms (Total)	

Suicides	
Homicides	
Accidents	
18,503	
15,551	
1,125	
35,673	
Suicides (all kinds, including firearms)	31,284
Accidents (five causes)	

Falls
Poison
Drowning
Fires, burns
Firearms

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□ □ □ **13,986**

□ □ □ **8,461**

□ □ □ **4,350**

□ □ □ **3,761**

□ □ □ **1,225**

□ □ □

Homicides (all instruments) **22,895**

Chronic liver disease, cirrhosis **25,222**

Source: Except for the figure on Deaths by Firearm, the above information is taken from the 1998 Census Bureau's 1998 Statistical Abstract, Table 1005, Deaths by Cause, 1995-1998.

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

Cause	Number
Motor-vehicle	3,059
Drowning	1,060
Fires, burns	833
Mechanical suffocation	459
Ingestion of food, objects	213
Firearms	181

Source: Figures are for 1995. National Safety Council, 1998, 11, 18.

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. ⁹⁴

* 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. ⁹⁵

* 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." ⁹⁶

* 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.

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As noted above, there were only 181 fatal gun accidents for children in 1995.

* 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.

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* 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 70,000 words of restrictions and requirements?⁹⁹ 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.¹⁰⁰ 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.

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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.¹⁰² Two surveys of young American males found that 22 to 34 percent had tried to perform crime techniques they had watched on television.

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c. Morality shift. "The kids have changed," says Judge Gaylord Finch, speaking with the help of

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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."¹⁰⁴

C. Women and Guns

* At least 17 million women own firearms in the United States.¹⁰⁵ And according to the National Research Opinion Center, 44 percent of adult women either own or have access to firearms.¹⁰⁶

* As many as 561 times a day, women use guns to protect themselves against sexual assault.¹⁰⁷

* In 89.6% of violent crimes directed against women, the offender does not have a gun; and only 10% of rapists carry a firearm.¹⁰⁸ 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.¹⁰⁹

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. Dr. Edgar Suter has pointed out that studies which make such claims are flawed because they fail to consider the number of lives saved by guns. That is, such claims ignore the vast number of non-lethal defensive uses with firearms.¹¹⁰

2. 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.¹¹¹

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.

¹¹²

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.¹¹³ 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. England and Canada's murder rates were ALREADY LOW BEFORE enacting gun control. Thus, their restrictive laws cannot be credited with lowering their crime rates.

¹¹⁴

2. The murder rates in England, Canada and Japan have risen tremendously since passing their gun control laws.¹¹⁵ And most crime rates in England have now surpassed the rates in the U.S.:

* In 1998, a study conducted by a British professor and a U.S. statistician 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 that was published by the U.S. Justice Department (DOJ). "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."¹¹⁶

* The murder rate in the United States is 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."¹¹⁷

3. United States: Take away the guns, and there is still more murder. United States' NON-GUN murder rate is higher than the TOTAL murder rates in England, Canada or Japan.

¹¹⁸

In other words, Americans kill each other more often with weapons other than guns -- such as with knives, fists and feet.

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* It is absurd to claim that the U.S. has more murders because it has more guns. If one were to "magically" make every gun disappear in the U.S., the hard fact is that Americans would still kill each other-without guns-more often than the citizens of England, Canada or Japan kill each other will ALL types of weapons.
* The problem is not the type of weapons used, but rather, the failure in America to keep violent criminals off the street. (See point 2 under Myth #2 above.)

4. Violence by any other name is still violent -- Many countries with strict gun control laws have higher violence rates than the United States does. Consider the following rates:

High Gun
Ownership Countries
Low Gun
Ownership Countries

Country
Suicide
Homicide
Total*
Country
Suicide
Homicide
Total*

Finland	24.4	2.86	27.2
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Switzerland	24.45	1.13	25.58
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U.S.	12.2	7.59	19.79
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Israel **	6	2	8
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* The figures listed in the table are the rates per 100,000 people.

** Israel's total violence rate is lower than the total rates in England/Wales or Canada.

Source for table: Don B. Kates, Jr., *Guns, Murders, and the Constitution: A Realistic Assessment of Gun Control*, (1990):42.

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

* 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.

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Thus, the murder rate had already begun decreasing two to three years before the Brady law and the semi-auto gun ban became law.

* 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 --

ebb and flow with their ranks

."

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(Emphasis added.)

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

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

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.

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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."

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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."

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.

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.

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."¹²³

Firearm Owners' Protection Act (1986):

The 1986 Law affirms individual right to keep and bear arms: "The Congress finds that the *right*

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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."

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[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."¹²⁵

* 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."¹²⁶

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"¹²⁷ 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."¹²⁸

* Current Federal Law: 10 U.S.C. Sec. 311. "The militia of the United States consists of all

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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"

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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."

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ENDNOTES

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 40,000 deaths per year. See *Accident Facts*,

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

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

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

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

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

7. *Id.* at 164, 185.

8. 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."

9. Memo by Sandra B. Mortham, Secretary of State, Florida Department of State, *Concealed Weapons/Firearms License Statistical Report* (10/1/87-12/31/97).

10. Compare Federal Bureau of Investigation, "Crime in the United States," Uniform Crime Reports, (1988): 7, 53; and FBI, (1998):15, 77.

11. From 1988 through 1997, there were 146 documented alligator attacks on human beings in Florida. This does not include any unreported encounters. Interview with Mark Trainor, Public Information Specialist for the Office of Information Services, Florida Game and Fresh Water Fish Commission, Tallahassee, Florida (14 December 1998). By contrast, there were only 88 CCW holders who used their guns during the same period to commit a crime. See *supra* note 9.

12. 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 *supra* note 17.

13. John R. Lott, Jr. and David B. Mustard, "Crime, Deterrence, and Right-to-Carry Concealed Handguns," University of Chicago, (15 August 1996).

14. 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," (1977):45, 53; and FBI, (1994):70, 78.

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

16. 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.)

17. Kleck, *Point Blank*, at 140.

18. Kleck, "Crime Control," at 13.

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

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

21. *Id.*

22. *Id.*

23. *Warren v. District of Columbia*, D.C. App., 444 A. 2d 1 (1981).
24. 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.
25. Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics* -- 1990, (1991):257.
26. Kleck, *Point Blank*, at 132.
27. FBI, "Crime in the United States," (1998): 77.
28. *Id.* at 184. According to Arlington County's own statistics, the population in Arlington, Virginia for 1997 was 186,400 people.
29. *Id.* at 86.
30. 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.
31. "Gun Critic Shifts His Position," *The Denver Post*, 28 November 1985.
32. James D. Wright, "Second Thoughts About Gun Control," *The Public Interest*, 91 (Spring 1988):23, 25.
33. Dave Kopel, "Guns, Germs, and Science: Public Health Approaches to Gun Control," 84 *The Journal of the Medical Association of Georgia* (June 1995): 272.
34. *Id.*
35. *Congressional Record*, 8 May 1991, pp. H 2859, H 2862.
36. *Wall Street Journal*, 3 March 1994 at A10.
37. Jonathan T. Lovitt, "Survival for the armed," *USA Today*, 4 May 1992.
38. Department of Justice, "Survey of Incarcerated Felons," p. 36.
39. Pierre Thomas, "In the Line of Fire: The 'Straw Purchase' Scam," *The Washington Post*, 18 August 1991; and Thomas, "Va. Driver's License is Loophole for Guns: Fake Addresses Used in No-Wait Sales," *The Washington Post*, 20 January 1992.
40. 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.
41. *U.S. v. Verdugo-Urquidez*, Sup. Ct. case No. 88-1353 (1990).
42. 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).
43. 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.
44. Bureau of Justice Assistance, Grant Manager's Memorandum, Pt. 1: Project Summary, September 30, 1994, Project Number: 94-DD-CX-0166.
45. 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.

46. 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*, at 7.

47. 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."

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

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

50. See General Accounting Office, *Gun Control: Implementation of the Brady Handgun Violence Prevention Act*, January 1996, p. 8.

51. 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. *Id.*, at 39-40, 64-65.

52. *Id.*, at 4.

53. *Id.*

54. 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.

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

56. NRA Press release, *Gun Confiscation Begins: Gun Law Victim Holds Press Conference and Turns in Gun to Local Officials*, (January 28, 1998).

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

58. 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).

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

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

61. *Id.*, at 25-26.

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

63. *Lamont v. Postmaster General*, 381 U.S. 301, 85 S. Ct. 1493, 14 L. Ed. 2d 398 (1965).
64. 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.
65. 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.
66. 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.
67. Kleck, *Point Blank*, at 70.
68. Senate, "Assault Weapons," at 396.
69. Officer William R. McGrath, "An Open Letter to American Politicians," *The Police Marksman*, (May/June 1989): 19.
70. *Id.*
71. *Id.*
72. 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.
73. Iver Peterson, "Both Sides Say Trenton's Ban on Assault Rifles Has Little Effect on Crime," *The New York Times*, 20 June 1993.
74. *Id.*
75. U.S. Department of Justice, Bureau of Justice Statistics, "Survey of State Prison Inmates, 1991," (March 1993):18.
76. FBI, "Crime in the United States," (1994):18.
77. Matt L. Rodriguez, Superintendent of Police for the City of Chicago, *1993 Murder Analysis* at 12, 13.
78. 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,

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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,"

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, (5 April 1993):50.)

79. 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.

80. 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.

81. 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 74.) See Handgun Control, Inc., *Cops Under Fire: Law Enforcement Officers Killed with Assault Weapons or Guns with High Capacity Magazines*, (29 November 1995):2.

82. *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 74.) Thus, either HCI's data is wrong, or it must concede that gun control INCREASES the threat to police officers.

83. 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.

84. *Id.* at 67.

85. *Id.* at 69.

86. Kleck, *Point Blank*, at 75.

87. Massad Ayoob, "Defending Firepower," *Combat Handguns*, October 1990, p. 71.
88. *Id.* at 70.
89. *Id.* at 25.
90. *Id.* at 71.
91. "Koreans make armed stand to protect shops from looters," *Roanoke Times & World-News*, 3 May 1992.
92. 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.
93. *U.S. v. Miller*, 307 U.S. 174 (1939).
94. 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 181 fatal gun accidents for children in that age group in 1995. National Safety Council, *Accident Facts*: 1998 Edition, at 18.
95. Kleck, *Point Blank*, at 271, 276.
96. *Id.* at 286.
97. *Id.* at 276, 277.
98. 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.
99. Alan Korwin, *Gun Laws of America: Every Federal Gun Law on the Books* (1995): 22, 23.
100. Kopel, *Guns: Who Should Have Them?*, at 355.
101. *Id.*, at 356.
102. *Id.*, at 359.
103. *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.
104. Steve Twomey, "Indiscretions That Are Not So Youthful," *The Washington Post*, 6 December 1993.
105. Christine Biegler, "Fearing crime, more women buy firearms," *The Washington Times*, 19 Nov. 1992.
106. Paxton Quigley, *Armed & Female* (1989): 7.
107. 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.
108. 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.
109. *Id.*, at 25, 26.
110. 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.
111. Kleck and Gertz, "Armed Resistance to Crime," at 173, 185.
112. 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*

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, 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.

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

114. 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.

115. For example, Great Britain's Pistols Act of 1903 has not stopped murders from increasing. In 1902, there were 181 murders; in 1904 there were 208 murders. By 1974, the number of murders in the country had risen almost 200% since before the passage of the 1903 Pistols Act. (Compare Greenwood, *supra note* 93, with Greenwood, "Comparative Cross-Cultural Statistics," in Don B. Kates, ed., *Restricting Handguns: The Liberal Skeptics Speak Out*,

(1979):44.) Moreover, from 1946 through 1969, the number of cases where firearms were used or carried in a crime skyrocketed almost 1,000 percent. (Greenwood, *Firearms Control*, at 158.)

See also Kevin Helliker, "As Gun Crimes Rise, Britain is Considering Cutting Legal Arsenal," *The Wall Street Journal*

, 19 April 1994; Clyde H. Farnsworth, "Tough Gun Control Near Approval in Canada," *The New York Times*

, 17 October 1991; John E. Woodruff, "A crime wave alarms Japan, once gun-free," *The Philadelphia Inquirer*, 11 July 1992.

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

117. See BJS study, *supra note* 116 at iii.

118. Erik Eckholm, "A Basic Issue: Whose Hands Should Guns Be Kept Out of?" *The New York Times*, 3 April

1992; and Kates,

Guns, Murders, and the Constitution

, at 42.

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

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

121. 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.

122. *Id.*, at 12.

123. 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.

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

125. Elliot, 3:425.

126. [Richard Henry Lee], *Letters from the Federal Farmer to the Republican*, ed. Walter Hartwell Bennett (Alabama: The University of Alabama Press, 1978): 124.

127. Militia Act of 1792, printed in John F. Callan, *The Military Laws of the United States* (Baltimore: John Murphy & Co., 1858): 65.

128. 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.

129. 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.

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

Six Common Gun Control Myths

Firearms statistics

Assault weapons: fact or fiction?

Problems with gun registration and licensing

Problems with waiting periods and background checks

Failure of Gun Control

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